

AMENDED IN ASSEMBLY JANUARY 19, 2006

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 1008

Introduced by ~~Senator Florez~~ Senators *Ducheny and Machado*
(Principal coauthor: Assembly Member Dymally)

February 22, 2005

An act ~~relating to adult education~~, to amend Sections 7072 and 7073 of the Government Code, and to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.5, 17276.6, 23622.7, 23622.8, 23634, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.5, and 24416.6 of the Revenue and Taxation Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 1008, as amended, ~~Florez Ducheny. Adult education. Economic incentive areas.~~

(1) *The Enterprise Zone Act provides for the designation by the Department of Housing and Community Development of enterprise zones, upon application by a city, county, or city and county with an eligible area, as defined, within its jurisdiction, pursuant to which qualifying entities within the zone receive various program, tax, and regulatory incentives. The applying entity is required to establish definitive boundaries for the proposed enterprise zone and targeted employment area, as defined. The designation of an enterprise zone is*

binding for a period of 15 years, which may be extended to a total of 20 years under specified conditions.

This bill would revise the definitions of an “eligible area” and a “targeted employment area” for these purposes. It would authorize a city, county, or city and county to propose, and authorize the department to designate, an area as an enterprise zone with noncontiguous boundaries. It would authorize the extension of the designation to total 25 years, and to include revisions with noncontiguous boundaries.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAs, subject to specified criteria. The qualified taxpayer is required to obtain a certification from specified entities regarding the eligibility of the qualified employee.

This bill would revise the definition of “qualified employee” for this purpose, and would revise the provisions governing the obtaining of the certificate of eligibility.

(3) The Personal Income Tax Law and the Corporation Tax Law allow various deductions in connection with enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAs, including a business expense deduction of 40% of the cost of specified property, and a deduction for net operating losses. In general, 100% of net operating losses are allowed to be carried forward to each of the 15 years following the year of the loss. In the case of taxpayers that also conduct business outside of an enterprise zone, Manufacturing Enhancement Area, targeted tax area, or LAMBRA, the taxpayers are required to apportion the losses to the zone or area in accordance with a specified apportionment formula.

This bill would increase the business expense deduction under these provisions to 60% of the cost of specified property. It would allow the net operating losses to be carried forward to each of the 17 years following the year of the loss and would eliminate the apportionment formula.

(4) This bill would delete various obsolete references and make conforming changes.

~~Existing law provides for the method of funding school districts that operate adult education programs and claim adult education state~~

~~apportionments, based on the district's adult education average daily attendance.~~

~~This bill would state the Legislature's intent to study adult education funding.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7072 of the Government Code, as
2 amended by Section 72 of Chapter 22 of the Statutes of 2005, is
3 amended to read:

4 7072. For purposes of this chapter, the following definitions
5 shall apply:

6 (a) "Department" means the Department of Housing and
7 Community Development.

8 (b) "Date of original designation" means the earlier of the
9 following:

10 (1) The date the eligible area receives designation as an
11 enterprise zone by the department pursuant to this chapter.

12 (2) In the case of an enterprise zone deemed designated
13 pursuant to subdivision (e) of Section 7073, the date the
14 enterprise zone or program area received original designation by
15 the former Trade and Commerce Agency pursuant to Chapter
16 12.8 (commencing with Section 7070) or Chapter 12.9
17 (commencing with Section 7080), as those chapters read prior to
18 January 1, 1997.

19 (c) "Eligible area" means any of the following:

20 (1) An area designated as an enterprise zone pursuant to
21 Chapter 12.8 (commencing with Section 7070), as it read prior to
22 January 1, 1997, or as a targeted economic development area,
23 neighborhood development area, or program area pursuant to
24 Chapter 12.9 (commencing with Section 7080), as it read prior to
25 January 1, 1997.

26 (2) ~~A~~ *With respect to an enterprise zone designated prior to*
27 *January 1, 2007, a geographic area that, based upon the*
28 *determination of the department, fulfills at least one of the*
29 *following criteria:*

1 (A) The proposed geographic area meets the Urban
2 Development Action Grant criteria of the United States
3 Department of Housing and Urban Development.

4 (B) The area within the proposed zone has experienced plant
5 closures within the past two years affecting more than 100
6 workers.

7 (C) The city or county has submitted material to the
8 department for a finding that the proposed geographic area meets
9 criteria of economic distress related to those used in determining
10 eligibility under the Urban Development Action Grant Program
11 and is therefore an eligible area.

12 (D) The area within the proposed zone has a history of
13 gang-related activity, whether or not crimes of violence have
14 been committed.

15 (3) A geographic area that meets at least two of the following
16 criteria:

17 (A) The census tracts within the proposed zone have an
18 unemployment rate not less than 3 percentage points above the
19 statewide *or countrywide* average for the ~~most recent calendar~~
20 ~~year prior three years~~ as determined by the Employment
21 Development Department.

22 (B) ~~The county of the proposed zone has more~~ More than 70
23 percent of the children enrolled in public ~~school~~ *schools serving*
24 *the census tract within the proposed zone are* participating in the
25 federal free lunch program.

26 (C) The median household income for a family of four within
27 the census tracts of the proposed zone does not exceed 80 percent
28 of the statewide median income for the most recently available
29 calendar year.

30 (D) *Either of the following:*

31 (i) *The area within the proposed zone has a history of*
32 *gang-related activity, and has received a grant from the Gang*
33 *Violence Suppression Program (Chapter 3.5 (commencing with*
34 *Section 13826) of Title 6 of Part 4 of the Penal Code) within the*
35 *last three years.*

36 (ii) *The area can document that it has experienced an industry*
37 *restructuring with negative long-term impacts affecting*
38 *long-term economic development, including, but not limited to,*
39 *resource depletion, plant closure, industry recession, natural*
40 *disaster, or military base closure not otherwise designated as a*

1 *Local Agency Military Base Recovery Area pursuant to Chapter*
2 *12.97 (commencing with Section 7105). The director shall make*
3 *a written finding when designating or extending an enterprise*
4 *zone for an area that documented an industry restructuring that*
5 *designating or extending the zone is necessary to further*
6 *effectuate the purposes of this chapter and improve employment,*
7 *business investment, and economic activity in the jurisdiction of*
8 *the applying entity.*

9 (d) "Enterprise zone" means any area within a city, county, or
10 city and county that is designated as such by the department in
11 accordance with Section 7073.

12 (e) "Governing body" means a county board of supervisors or
13 a city council, as appropriate.

14 (f) "High technology industries" ~~includes~~ *include*, but ~~is~~ *are*
15 not limited to, the computer, biological engineering, electronics,
16 and telecommunications industries.

17 (g) "Resident," unless otherwise defined, means a person
18 whose principal place of residence is within a targeted
19 employment area.

20 (h) ~~"Targeted—~~(1) *With respect to an enterprise zone*
21 *designated prior to January 1, 2007, "targeted employment*
22 *area" means an area within a city, county, or city and county that*
23 *is composed solely of those census tracts designated by the*
24 *United States Department of Housing and Urban Development as*
25 *having at least 51 percent of its residents of low- or*
26 *moderate-income levels, using either the most recent United*
27 *States Department of Census data available at the time of the*
28 *original enterprise zone application or the most recent—census*
29 *United States Department of Census data available at the time the*
30 *targeted employment area is designated to determine that*
31 *eligibility. The*

32 (2) *With respect to an enterprise zone designated on or after*
33 *January 1, 2007, "targeted employment area" means an area*
34 *within a city, county, or city and county that is composed solely*
35 *of those census block groups designated by the United States*
36 *Department of Housing and Urban Development as having at*
37 *least 61 percent of its residents of low- or moderate-income*
38 *levels, using either the most recent United States Department of*
39 *Census data available at the time of the original enterprise zone*

1 *application or the most recent United States Department of*
2 *Census data available.*

3 (3) *The city, county, or city and county shall update targeted*
4 *employment areas within 180 days of updated United States*
5 *Department of Census data becoming available. An area*
6 *described in paragraph (1) shall meet the criteria described in*
7 *paragraph (2) upon the first updating by the city, county, or city*
8 *and county after January 1, 2007.*

9 (4) *The purpose of a “targeted employment area” is to*
10 *encourage businesses in an enterprise zone to hire eligible*
11 *residents of certain geographic areas within a city, county, or city*
12 *and county. A targeted employment area may be, but is not*
13 *required to be, the same as all or part of an enterprise zone. A*
14 *targeted employment area’s boundaries need not be contiguous.*
15 *A targeted employment area does not need to encompass each*
16 *eligible census tract or block group, as applicable, within a city,*
17 *county, or city and county. The governing body of each city,*
18 *county, or city and county that has jurisdiction of the enterprise*
19 *zone shall identify those census tracts or block groups, as*
20 *applicable, whose residents are in the most need of this*
21 *employment targeting. Only those census tracts or block groups,*
22 *as applicable, within the jurisdiction of the city, county, or city*
23 *and county that has jurisdiction of the enterprise zone may be*
24 *included in a targeted employment area.*

25 ~~At~~

26 (5) *At least a part of each eligible census tract or block group,*
27 *as applicable, within a targeted employment area shall be within*
28 *the territorial jurisdiction of the city, county, or city and county*
29 *that has jurisdiction for an enterprise zone. If an eligible census*
30 *tract or block group, as applicable, encompasses the territorial*
31 *jurisdiction of two or more local governmental entities, all of*
32 *those entities shall be a party to the designation of a targeted*
33 *employment area. However, any one or more of those entities, by*
34 *resolution or ordinance, may specify that it shall not participate*
35 *in the application as an applicant, but shall agree to complete all*
36 *actions stated within the application that apply to its jurisdiction,*
37 *if the area is designated.*

38 ~~Each~~

39 (6) *Each local governmental entity of each city, county, or city*
40 *and county that has jurisdiction of an enterprise zone shall*

1 approve, by resolution or ordinance, the boundaries of its
2 targeted employment area, regardless of whether a census tract *or*
3 *block group, as applicable*, within the proposed targeted
4 employment area is outside the jurisdiction of the local
5 governmental entity.

6 *SEC. 2. Section 7073 of the Government Code is amended to*
7 *read:*

8 7073. (a) Except as provided in subdivision (e), any city,
9 county, or city and county with an eligible area within its
10 jurisdiction may complete a preliminary application for
11 designation as an enterprise zone. The applying entity shall
12 establish definitive boundaries for the proposed enterprise zone
13 and the targeted employment area. *An entity may propose zones*
14 *in areas with noncontiguous boundaries, and the department may*
15 *designate those areas as zones if the director determines that it*
16 *would more substantially achieve the purposes of this chapter to*
17 *do so.*

18 (b) (1) In designating enterprise zones, the department shall
19 select from the applications submitted those proposed enterprise
20 zones that, upon a comparison of all of the applications
21 submitted, indicate that they propose the most effective,
22 innovative, and comprehensive regulatory, tax, program, and
23 other incentives in attracting private sector investment in the
24 zone proposed. *It is the intent of the Legislature that the*
25 *department give preference when designating zones to areas*
26 *meeting the most quantifiable indicators of poverty and economic*
27 *challenge.*

28 (2) For purposes of this subdivision, regulatory incentives
29 include, but are not limited to, all of the following:

30 (A) The suspension or relaxation of locally originated or
31 modified building codes, zoning laws, general development
32 plans, or rent controls.

33 (B) The elimination or reduction of fees for applications,
34 permits, and local government services.

35 (C) The establishment of a streamlined permit process.

36 (3) For purposes of this subdivision, tax incentives include,
37 but are not limited to, the elimination or reduction of construction
38 taxes or business license taxes.

(4) For the purposes of this subdivision, program and other incentives may include, but are not limited to, all of the following:

(A) The provision or expansion of infrastructure.

(B) The targeting of federal block grant moneys, including small cities, education, and health and welfare block grants.

(C) The targeting of economic development grants and loan moneys, including grant and loan moneys provided by the federal ~~Urban Development Action Grant program and the federal Economic Development Administration~~ *United States Department of Housing and Urban Development*.

(D) The targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal ~~Job Training Partnership Act of 1982 (Public Law 97-300)~~ *Workforce Investment Act of 1998 (Public Law 105-220)*, or its successor.

(E) The targeting of federal or state transportation grant moneys.

(F) The targeting of federal or state low-income housing and rental assistance moneys.

(G) The use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), industrial development bonds, revenue bonds, private activity bonds, housing bonds, bonds issued pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5), certificates of participation, hospital bonds, redevelopment bonds, school bonds, and all special provisions provided for under federal tax law for enterprise community or empowerment zone bonds.

(5) In the process of designating new enterprise zones, the department shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(6) In designating new enterprise zones, the department shall include in its criteria the fact that jurisdictions have been declared disaster areas by the President of the United States within the last seven years.

(7) When reviewing and ranking new enterprise zone applications, the department shall give special consideration or bonus points, or both, to applications from jurisdictions that meet at least two of the following criteria:

(A) The percentage of households within the census tracts of the proposed enterprise zone area, the income of which is below the poverty level, is at least 17.5 percent.

(B) The average unemployment rate for the census tracts of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development, including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.

(c) In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies, and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(d) (1) Except as provided in paragraph (2), or upon dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, a designation made by the department shall be binding for a period of 15 years from the date of the original designation.

(2) (A) The designation period for any zone designated pursuant to either ~~Section 7073~~ *this section* or former Section 7085, as it read prior to ~~1990~~ *January 1, 1997*, may be extended by up to two five-year periods, to total ~~20~~ 25 years, subject to possible dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, if the following requirements are met:

(A) (i) *The area within the zone is an eligible area within the meaning of subdivision (c) of Section 7072.*

(ii) The zone receives a superior or passing audit pursuant to subdivision (c) of Section 7076.1.

(B)

1 (iii) The local jurisdictions comprising the zone submit an
2 updated economic development plan to the department justifying
3 the need for ~~an~~ *each* additional five years by defining goals and
4 objectives that still need to be achieved and indicating what
5 actions are to be taken to achieve these goals and objectives.

6 (B) *At the request of the applying entity, the department may*
7 *approve an extended designation period for a zone with revised*
8 *boundaries within the jurisdiction of the applying entity, if the*
9 *area is an eligible area within the meaning of subdivision (c) of*
10 *Section 7072. An entity may apply for an extended designation*
11 *period for a zone with revised boundaries that are*
12 *noncontiguous, and the department may approve the extension if*
13 *the director determines that it would more substantially achieve*
14 *the purposes of this chapter to do so.*

15 (e) (1) Notwithstanding any other provision of law, any area
16 designated as an enterprise zone pursuant to Chapter 12.8
17 (commencing with Section 7070) as it read prior to January 1,
18 1997, or as a targeted economic development area, neighborhood
19 economic development area, or program area pursuant to Chapter
20 12.9 (commencing with Section 7080) as it read prior to January
21 1, 1997, or any program area or part of a program area deemed
22 designated as an enterprise zone pursuant to Section 7085.5 as it
23 read prior to January 1, 1997, shall be deemed to be designated
24 as an enterprise zone pursuant to this chapter. The effective date
25 of designation of the enterprise zone shall be that of the original
26 designation of the enterprise zone pursuant to Chapter 12.8
27 (commencing with Section 7070) as it read prior to January 1,
28 1997, or of the program area pursuant to Chapter 12.9
29 (commencing with Section 7080) as it read prior to January 1,
30 1997, and in no event may the total designation period exceed 15
31 years, except as provided in paragraph (2) of subdivision (d).

32 (2) Notwithstanding any other provision of law, any enterprise
33 zone authorized, but not designated, pursuant to Chapter 12.8
34 (commencing with Section 7070) as it read prior to January 1,
35 1997, shall be allowed to complete the application process started
36 pursuant to that chapter, and to receive final designation as an
37 enterprise zone pursuant to this chapter.

38 (3) Notwithstanding any other provision of law, any expansion
39 of a designated enterprise zone or program area authorized
40 pursuant to Chapter 12.8 (commencing with Section 7070) as it

1 read prior to January 1, 1997, or Chapter 12.9 (commencing with
2 Section 7080) as it read prior to January 1, 1997, shall be deemed
3 to be authorized as an expansion for a designated enterprise zone
4 pursuant to this chapter.

5 (4) No part of this chapter may be construed to require a new
6 application for designation by an enterprise zone designated
7 pursuant to Chapter 12.8 (commencing with Section 7070) as it
8 read prior to January 1, 1997, or a targeted economic
9 development area, neighborhood economic development area, or
10 program area designated pursuant to Chapter 12.9 (commencing
11 with Section 7080) as it read prior to January 1, 1997.

12 (f) Notwithstanding any other provision of law, a city, county,
13 or a city and county may designate a joint powers authority to
14 administer the enterprise zone.

15 (g) No more than 42 enterprise zones may be designated at
16 any one time pursuant to this chapter, including those deemed
17 designated pursuant to subdivision (e). Upon the expiration or
18 termination of a designation, the department is authorized to
19 designate another enterprise zone to maintain a total of 42
20 enterprise zones.

21 *SEC. 3. Section 17053.34 of the Revenue and Taxation Code*
22 *is amended to read:*

23 17053.34. (a) For each taxable year beginning on or after
24 January 1, 1998, there shall be allowed a credit against the “net
25 tax” (as defined in Section 17039) to a qualified taxpayer who
26 employs a qualified employee in a targeted tax area during the
27 taxable year. The credit shall be equal to the sum of each of the
28 following:

29 (1) Fifty percent of qualified wages in the first year of
30 employment.

31 (2) Forty percent of qualified wages in the second year of
32 employment.

33 (3) Thirty percent of qualified wages in the third year of
34 employment.

35 (4) Twenty percent of qualified wages in the fourth year of
36 employment.

37 (5) Ten percent of qualified wages in the fifth year of
38 employment.

39 (b) For purposes of this section:

40 (1) “Qualified wages” means:

1 (A) That portion of wages paid or incurred by the qualified
2 taxpayer during the taxable year to qualified employees that does
3 not exceed 150 percent of the minimum wage.

4 (B) Wages received during the 60-month period beginning
5 with the first day the employee commences employment with the
6 qualified taxpayer. Reemployment in connection with any
7 increase, including a regularly occurring seasonal increase, in the
8 trade or business operations of the qualified taxpayer does not
9 constitute commencement of employment for purposes of this
10 section.

11 (C) Qualified wages do not include any wages paid or incurred
12 by the qualified taxpayer on or after the targeted tax area
13 expiration date. However, wages paid or incurred with respect to
14 qualified employees who are employed by the qualified taxpayer
15 within the targeted tax area within the 60-month period prior to
16 the targeted tax area expiration date shall continue to qualify for
17 the credit under this section after the targeted tax area expiration
18 date, in accordance with all provisions of this section applied as
19 if the targeted tax area designation were still in existence and
20 binding.

21 (2) “Minimum wage” means the wage established by the
22 Industrial Welfare Commission as provided for in Chapter 1
23 (commencing with Section 1171) of Part 4 of Division 2 of the
24 Labor Code.

25 (3) “Targeted tax area expiration date” means the date the
26 targeted tax area designation expires, is revoked, is no longer
27 binding, or becomes inoperative.

28 (4) (A) “Qualified employee” means an individual who meets
29 all of the following requirements:

30 (i) At least 90 percent of his or her services for the qualified
31 taxpayer during the taxable year are directly related to the
32 conduct of the qualified taxpayer’s trade or business located in a
33 targeted tax area.

34 (ii) Performs at least 50 percent of his or her services for the
35 qualified taxpayer during the taxable year in a targeted tax area.

36 (iii) Is hired by the qualified taxpayer after the date of original
37 designation of the area in which services were performed as a
38 targeted tax area.

39 (iv) Is any of the following *as documented by the targeted tax*
40 *area coordinator*:

(I) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person ~~eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) enrolled and documented in the California Job Training Automation System by an authorized WIA representative under the federal Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.~~

(II) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a person ~~eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) receiving benefits under the California Work Opportunity and Responsibility to Kids program provided for pursuant to Article 3.2 (commencing with Section 11200) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older. *For purposes of this section, "economically disadvantaged individual" means an individual who meets the definition of that term under the Workforce Investment Act, or its successor.*

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker ~~who meets any of the following: For purposes of this section, a "dislocated worker" means an individual who meets the definition of that term under the Workforce Investment Act, or its successor.~~

(aa) ~~Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.~~

(bb) ~~Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise,~~

1 including an individual who has not received written notification
2 but whose employer has made a public announcement of the
3 closure or layoff.

4 (cc) Is long-term unemployed and has limited opportunities for
5 employment or reemployment in the same or a similar
6 occupation in the area in which the individual resides, including
7 an individual 55 years of age or older who may have substantial
8 barriers to employment by reason of age.

9 (dd) Was self-employed (including farmers and ranchers) and
10 is unemployed as a result of general economic conditions in the
11 community in which he or she resides or because of natural
12 disasters.

13 (ee) Was a civilian employee of the Department of Defense
14 employed at a military installation being closed or realigned
15 under the Defense Base Closure and Realignment Act of 1990.

16 (ff) Was an active member of the armed forces or National
17 Guard as of September 30, 1990, and was either involuntarily
18 separated or separated pursuant to a special benefits program.

19 (gg) Is a seasonal or migrant worker who experiences chronic
20 seasonal unemployment and underemployment in the agriculture
21 industry, aggravated by continual advancements in technology
22 and mechanization.

23 (hh) Has been terminated or laid off, or has received a notice
24 of termination or layoff, as a consequence of compliance with the
25 Clean Air Act.

26 (V) Immediately preceding the qualified employee's
27 commencement of employment with the qualified taxpayer, was
28 a disabled individual who is eligible for or enrolled in, or has
29 completed a state rehabilitation plan or is.

30 (VI) Is a service-connected disabled veteran, veteran of the
31 Vietnam era, or veteran who is recently separated from military
32 service an individual who served in the active military, naval, or
33 air service, and who was discharged or released from that
34 service under conditions other than dishonorable, or any veteran
35 who was discharged or released in the last 48 months from active
36 military, naval, or air service.

37 (VI) Immediately preceding the qualified employee's
38 commencement of employment with the qualified taxpayer, was
39 an ex-offender.

1 (VII) *Has a prior felony conviction.* An individual shall be
2 treated as convicted if he or she was placed on probation by a
3 state court without a finding of guilty.

4 ~~(VII)~~

5 (VIII) Immediately preceding the qualified employee's
6 commencement of employment with the qualified taxpayer, was
7 a person ~~eligible for or a recipient of~~ *receiving* any of the
8 following *benefits*:

9 (aa) Federal Supplemental Security Income benefits.

10 (bb) ~~Aid to Families with Dependent Children~~ *Temporary*
11 *Assistance for Needy Families.*

12 (cc) Food stamps.

13 (dd) State and local general assistance.

14 ~~(VIII)~~

15 (IX) Immediately preceding the qualified employee's
16 commencement of employment with the qualified taxpayer, was
17 a member of a federally recognized Indian tribe, band, or other
18 group of Native American descent.

19 ~~(IX)~~

20 (X) Immediately preceding the qualified employee's
21 commencement of employment with the qualified taxpayer, was
22 a resident of a targeted tax area.

23 ~~(X)~~

24 (XI) Immediately preceding the qualified employee's
25 commencement of employment with the taxpayer, was a member
26 of a targeted group as defined in Section 51(d) of the Internal
27 Revenue Code, or its successor.

28 (B) Priority for employment shall be provided to an individual
29 who is enrolled in a qualified program under the federal ~~Job~~
30 ~~Training Partnership~~ *Workforce Investment Act, or its successor,*
31 ~~or the Greater Avenues for Independence Act of 1985~~ *California*
32 *Work Opportunity and Responsibility to Kids Act* or who is
33 eligible as a member of a targeted group under the Work
34 Opportunity Tax Credit (Section 51 of the Internal Revenue
35 Code), or its successor.

36 (5) (A) "Qualified taxpayer" means a person or entity that
37 meets both of the following:

38 (i) Is engaged in a trade or business within a targeted tax area
39 designated pursuant to Chapter 12.93 (commencing with Section
40 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 23634 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 11 (commencing with Section 23001). For purposes of this subdivision, the term “pass-through entity” means any partnership or S corporation.

(6) “Seasonal employment” means employment by a qualified taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) If the qualified taxpayer is allowed a credit for qualified wages pursuant to this section, only one credit shall be allowed to the taxpayer under this part with respect to those qualified wages.

(d) The qualified taxpayer shall do both of the following:

(1) Obtain from ~~either the Employment Development Department, as permitted by federal law, or the local county or city Job Training Partnership Workforce Investment Act (or its successor) administrative entity or the local county—GAIN~~ *CalWORKs office or social services agency, as appropriate or the local government administering the targeted tax area*, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. *Applications for this certification shall be submitted to the certifying agency within 24 months of the commencement date of employment with the taxpayer.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(e) (1) For purposes of this section:

1 (A) All employees of trades or businesses, which are not
2 incorporated, that are under common control shall be treated as
3 employed by a single taxpayer.

4 (B) The credit, if any, allowable by this section with respect to
5 each trade or business shall be determined by reference to its
6 proportionate share of the expense of the qualified wages giving
7 rise to the credit, and shall be allocated in that manner.

8 (C) Principles that apply in the case of controlled groups of
9 corporations, as specified in subdivision (d) of Section 23634,
10 shall apply with respect to determining employment.

11 (2) If an employer acquires the major portion of a trade or
12 business of another employer (hereinafter in this paragraph
13 referred to as the “predecessor”) or the major portion of a
14 separate unit of a trade or business of a predecessor, then, for
15 purposes of applying this section (other than subdivision (f)) for
16 any calendar year ending after that acquisition, the employment
17 relationship between a qualified employee and an employer shall
18 not be treated as terminated if the employee continues to be
19 employed in that trade or business.

20 (f) (1) (A) If the employment, other than seasonal
21 employment, of any qualified employee, with respect to whom
22 qualified wages are taken into account under subdivision (a) is
23 terminated by the qualified taxpayer at any time during the first
24 270 days of that employment (whether or not consecutive) or
25 before the close of the 270th calendar day after the day in which
26 that employee completes 90 days of employment with the
27 qualified taxpayer, the tax imposed by this part for the taxable
28 year in which that employment is terminated shall be increased
29 by an amount equal to the credit allowed under subdivision (a)
30 for that taxable year and all prior taxable years attributable to
31 qualified wages paid or incurred with respect to that employee.

32 (B) If the seasonal employment of any qualified employee,
33 with respect to whom qualified wages are taken into account
34 under subdivision (a) is not continued by the qualified taxpayer
35 for a period of 270 days of employment during the 60-month
36 period beginning with the day the qualified employee
37 commences seasonal employment with the qualified taxpayer,
38 the tax imposed by this part, for the taxable year that includes the
39 60th month following the month in which the qualified employee
40 commences seasonal employment with the qualified taxpayer,

1 shall be increased by an amount equal to the credit allowed under
2 subdivision (a) for that taxable year and all prior taxable years
3 attributable to qualified wages paid or incurred with respect to
4 that qualified employee.

5 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
6 any of the following:

7 (i) A termination of employment of a qualified employee who
8 voluntarily leaves the employment of the qualified taxpayer.

9 (ii) A termination of employment of a qualified employee
10 who, before the close of the period referred to in subparagraph
11 (A) of paragraph (1), becomes disabled and unable to perform the
12 services of that employment, unless that disability is removed
13 before the close of that period and the qualified taxpayer fails to
14 offer reemployment to that employee.

15 (iii) A termination of employment of a qualified employee, if
16 it is determined that the termination was due to the misconduct
17 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
18 of the California Code of Regulations) of that employee.

19 (iv) A termination of employment of a qualified employee due
20 to a substantial reduction in the trade or business operations of
21 the qualified taxpayer.

22 (v) A termination of employment of a qualified employee, if
23 that employee is replaced by other qualified employees so as to
24 create a net increase in both the number of employees and the
25 hours of employment.

26 (B) Subparagraph (B) of paragraph (1) shall not apply to any
27 of the following:

28 (i) A failure to continue the seasonal employment of a
29 qualified employee who voluntarily fails to return to the seasonal
30 employment of the qualified taxpayer.

31 (ii) A failure to continue the seasonal employment of a
32 qualified employee who, before the close of the period referred to
33 in subparagraph (B) of paragraph (1), becomes disabled and
34 unable to perform the services of that seasonal employment,
35 unless that disability is removed before the close of that period
36 and the qualified taxpayer fails to offer seasonal employment to
37 that qualified employee.

38 (iii) A failure to continue the seasonal employment of a
39 qualified employee, if it is determined that the failure to continue
40 the seasonal employment was due to the misconduct (as defined

1 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
2 California Code of Regulations) of that qualified employee.

3 (iv) A failure to continue seasonal employment of a qualified
4 employee due to a substantial reduction in the regular seasonal
5 trade or business operations of the qualified taxpayer.

6 (v) A failure to continue the seasonal employment of a
7 qualified employee, if that qualified employee is replaced by
8 other qualified employees so as to create a net increase in both
9 the number of seasonal employees and the hours of seasonal
10 employment.

11 (C) For purposes of paragraph (1), the employment
12 relationship between the qualified taxpayer and a qualified
13 employee shall not be treated as terminated by reason of a mere
14 change in the form of conducting the trade or business of the
15 qualified taxpayer, if the qualified employee continues to be
16 employed in that trade or business and the qualified taxpayer
17 retains a substantial interest in that trade or business.

18 (3) Any increase in tax under paragraph (1) shall not be treated
19 as tax imposed by this part for purposes of determining the
20 amount of any credit allowable under this part.

21 (g) In the case of an estate or trust, both of the following
22 apply:

23 (1) The qualified wages for any taxable year shall be
24 apportioned between the estate or trust and the beneficiaries on
25 the basis of the income of the estate or trust allocable to each.

26 (2) Any beneficiary to whom any qualified wages have been
27 apportioned under paragraph (1) shall be treated, for purposes of
28 this part, as the employer with respect to those wages.

29 (h) For purposes of this section, “targeted tax area” means an
30 area designated pursuant to Chapter 12.93 (commencing with
31 Section 7097) of Division 7 of Title 1 of the Government Code.

32 (i) In the case where the credit otherwise allowed under this
33 section exceeds the “net tax” for the taxable year, that portion of
34 the credit that exceeds the “net tax” may be carried over and
35 added to the credit, if any, in succeeding taxable years, until the
36 credit is exhausted. The credit shall be applied first to the earliest
37 taxable years possible.

38 (j) (1) The amount of the credit otherwise allowed under this
39 section and Section 17053.33, including any credit carryover
40 from prior years, that may reduce the “net tax” for the taxable

1 year shall not exceed the amount of tax that would be imposed on
2 the qualified taxpayer's business income attributable to the
3 targeted tax area determined as if that attributable income
4 represented all of the income of the qualified taxpayer subject to
5 tax under this part.

6 (2) Attributable income shall be that portion of the taxpayer's
7 California source business income that is apportioned to the
8 targeted tax area . For that purpose, the taxpayer's business
9 income attributable to sources in this state first shall be
10 determined in accordance with Chapter 17 (commencing with
11 Section 25101) of Part 11. That business income shall be further
12 apportioned to the targeted tax area in accordance with Article 2
13 (commencing with Section 25120) of Chapter 17 of Part 11,
14 modified for purposes of this section in accordance with
15 paragraph (3).

16 (3) Business income shall be apportioned to the targeted tax
17 area by multiplying the total California business income of the
18 taxpayer by a fraction, the numerator of which is the property
19 factor plus the payroll factor, and the denominator of which is
20 two. For purposes of this paragraph:

21 (A) The property factor is a fraction, the numerator of which is
22 the average value of the taxpayer's real and tangible personal
23 property owned or rented and used in the targeted tax area during
24 the taxable year, and the denominator of which is the average
25 value of all the taxpayer's real and tangible personal property
26 owned or rented and used in this state during the taxable year.

27 (B) The payroll factor is a fraction, the numerator of which is
28 the total amount paid by the taxpayer in the targeted tax area
29 during the taxable year for compensation, and the denominator of
30 which is the total compensation paid by the taxpayer in this state
31 during the taxable year.

32 (4) The portion of any credit remaining, if any, after
33 application of this subdivision, shall be carried over to
34 succeeding taxable years, as if it were an amount exceeding the
35 "net tax" for the taxable year, as provided in subdivision (h).

36 (5) In the event that a credit carryover is allowable under
37 subdivision (h) for any taxable year after the targeted tax area
38 expiration date, the targeted tax area shall be deemed to remain
39 in existence for purposes of computing the limitation specified in
40 this subdivision.

1 (k) *The amendments made to this section by the act that added*
2 *this subdivision shall apply only to vouchers for hiring credits*
3 *issued after January 1, 2007.*

4 SEC. 4. *Section 17053.46 of the Revenue and Taxation Code*
5 *is amended to read:*

6 17053.46. (a) For each taxable year beginning on or after
7 January 1, 1995, there shall be allowed as a credit against the
8 “net tax” (as defined in Section 17039) to a qualified taxpayer for
9 hiring a qualified disadvantaged individual or a qualified
10 displaced employee during the taxable year for employment in
11 the LAMBRA. The credit shall be equal to the sum of each of the
12 following:

13 (1) Fifty percent of the qualified wages in the first year of
14 employment.

15 (2) Forty percent of the qualified wages in the second year of
16 employment.

17 (3) Thirty percent of the qualified wages in the third year of
18 employment.

19 (4) Twenty percent of the qualified wages in the fourth year of
20 employment.

21 (5) Ten percent of the qualified wages in the fifth year of
22 employment.

23 (b) For purposes of this section:

24 (1) “Qualified wages” means:

25 (A) That portion of wages paid or incurred by the employer
26 during the taxable year to qualified disadvantaged individuals or
27 qualified displaced employees that does not exceed 150 percent
28 of the minimum wage.

29 (B) The total amount of qualified wages which may be taken
30 into account for purposes of claiming the credit allowed under
31 this section shall not exceed two million dollars (\$2,000,000) per
32 taxable year.

33 (C) Wages received during the 60-month period beginning
34 with the first day the individual commences employment with the
35 taxpayer. Reemployment in connection with any increase,
36 including a regularly occurring seasonal increase, in the trade or
37 business operations of the qualified taxpayer does not constitute
38 commencement of employment for purposes of this section.

39 (D) Qualified wages do not include any wages paid or incurred
40 by the qualified taxpayer on or after the LAMBRA expiration

1 date. However, wages paid or incurred with respect to qualified
2 disadvantaged individuals or qualified displaced employees who
3 are employed by the qualified taxpayer within the LAMBRA
4 within the 60-month period prior to the LAMBRA expiration
5 date shall continue to qualify for the credit under this section
6 after the LAMBRA expiration date, in accordance with all
7 provisions of this section applied as if the LAMBRA designation
8 were still in existence and binding.

9 (2) “Minimum wage” means the wage established by the
10 Industrial Welfare Commission as provided for in Chapter 1
11 (commencing with Section 1171) of Part 4 of Division 2 of the
12 Labor Code.

13 (3) “LAMBRA” means a local agency military base recovery
14 area designated in accordance with Section 7114 of the
15 Government Code.

16 (4) “Qualified disadvantaged individual” means an individual
17 who satisfies all of the following requirements:

18 (A) (i) At least 90 percent of whose services for the taxpayer
19 during the taxable year are directly related to the conduct of the
20 taxpayer’s trade or business located in a LAMBRA.

21 (ii) Who performs at least 50 percent of his or her services for
22 the taxpayer during the taxable year in the LAMBRA.

23 (B) Who is hired by the employer after the designation of the
24 area as a LAMBRA in which the individual’s services were
25 primarily performed.

26 (C) Who is any of the following immediately preceding the
27 individual’s commencement of employment with the taxpayer *as*
28 *documented by the LAMBRA coordinator*:

29 (i) ~~An individual who has been determined eligible for~~
30 ~~services under the federal Job Training Partnership Act (29~~
31 ~~U.S.C. Sec. 1501 et seq.) enrolled and documented in the~~
32 ~~California Job Training Automation System by an authorized~~
33 ~~WIA representative under the federal Workforce Investment Act~~
34 ~~(29 U.S.C. Sec. 720 et seq.), or its successor.~~

35 (ii) ~~Any voluntary or mandatory registrant under the Greater~~
36 ~~Avenues for Independence Act of 1985 as provided pursuant to~~
37 ~~Article 3.2 (commencing with Section 11320) An individual~~
38 ~~receiving benefits under the California Work Opportunity and~~
39 ~~Responsibility to Kids program provided for pursuant to Article~~

3.2 (commencing with Section 11200) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(iii) An economically disadvantaged individual age 16 years or older. *For purposes of this section, an “economically disadvantaged individual” means an individual who meets the definition of that term under the Workforce Investment Act, or its successor.*

(iv) A dislocated worker ~~who meets any of the following conditions~~. *For purposes of this section, a “dislocated worker” is an individual who meets the definition of that term under the Workforce Investment Act, or its successor.*

~~(I) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.~~

~~(II) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of such a closure or layoff.~~

~~(III) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.~~

~~(IV) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.~~

~~(V) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.~~

~~(VI) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.~~

~~(VII) Experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.~~

1 ~~(VIII) Has been terminated or laid off or has received a notice~~
2 ~~of termination or layoff as a consequence of compliance with the~~
3 ~~Clean Air Act.~~

4 (v) An individual who is enrolled in or has completed a state
5 rehabilitation plan ~~or is a~~.

6 (vi) *Is a service-connected disabled veteran, veteran of the*
7 *Vietnam era, or veteran who is recently separated from military*
8 *service.*

9 ~~(vi) An ex-offender~~

10 (vii) *Has a prior felony conviction.* An individual shall be
11 treated as convicted if he or she was placed on probation by a
12 state court without a finding of guilty.

13 ~~(vii)~~

14 (viii) A recipient of *any of the following benefits:*

15 (I) Federal Supplemental Security Income benefits.

16 ~~(II) Aid to Families with Dependent Children Temporary~~
17 ~~Assistance for Needy Families.~~

18 (III) Food stamps.

19 (IV) State and local general assistance.

20 ~~(viii)~~

21 (ix) Is a member of a federally recognized Indian tribe, band,
22 or other group of Native American descent.

23 (5) “Qualified taxpayer” means a taxpayer or partnership that
24 conducts a trade or business within a LAMBRA and, for the first
25 two taxable years, has a net increase in jobs (defined as 2,000
26 paid hours per employee per year) of one or more employees in
27 the LAMBRA.

28 (A) The net increase in the number of jobs shall be determined
29 by subtracting the total number of full-time employees (defined
30 as 2,000 paid hours per employee per year) the taxpayer
31 employed in this state in the taxable year prior to commencing
32 business operations in the LAMBRA from the total number of
33 full-time employees the taxpayer employed in this state during
34 the second taxable year after commencing business operations in
35 the LAMBRA. For taxpayers who commence doing business in
36 this state with their LAMBRA business operation, the number of
37 employees for the taxable year prior to commencing business
38 operations in the LAMBRA shall be zero. If the taxpayer has a
39 net increase in jobs in the state, the credit shall be allowed only if

1 one or more full-time employees is employed within the
2 LAMBRA.

3 (B) The total number of employees employed in the
4 LAMBRA shall equal the sum of both of the following:

5 (i) The total number of hours worked in the LAMBRA for the
6 taxpayer by employees (not to exceed 2,000 hours per employee)
7 who are paid an hourly wage divided by 2,000.

8 (ii) The total number of months worked in the LAMBRA for
9 the taxpayer by employees who are salaried employees divided
10 by 12.

11 (C) In the case of a taxpayer who first commences doing
12 business in the LAMBRA during the taxable year, for purposes
13 of clauses (i) and (ii), respectively, of subparagraph (B), the
14 divisors “2,000” and “12” shall be multiplied by a fraction, the
15 numerator of which is the number of months of the taxable year
16 that the taxpayer was doing business in the LAMBRA and the
17 denominator of which is 12.

18 (6) “Qualified displaced employee” means an individual who
19 satisfies all of the following requirements:

20 (A) Any civilian or military employee of a base or former base
21 who has been displaced as a result of a federal base closure act.

22 (B) (i) At least 90 percent of whose services for the taxpayer
23 during the taxable year are directly related to the conduct of the
24 taxpayer’s trade or business located in a LAMBRA.

25 (ii) Who performs at least 50 percent of his or her services for
26 the taxpayer during the taxable year in a LAMBRA.

27 (C) Who is hired by the employer after the designation of the
28 area in which services were performed as a LAMBRA.

29 (7) “Seasonal employment” means employment by a qualified
30 taxpayer that has regular and predictable substantial reductions in
31 trade or business operations.

32 (8) “LAMBRA expiration date” means the date the LAMBRA
33 designation expires, is no longer binding, or becomes
34 inoperative.

35 (c) For qualified disadvantaged individuals or qualified
36 displaced employees hired on or after January 1, 2001, the
37 taxpayer shall do both of the following:

38 (1) Obtain from ~~either~~ the Employment Development
39 Department, as permitted by federal law, the local county or city
40 ~~Job Training Partnership~~ *Workforce Investment Act (or its*

1 *successor*) administrative entity, the local county—~~GAIN~~
2 *CalWORKs* office, or *local* social services agency, as appropriate
3 or the local government administering the *LAMBRA*, a
4 certification that provides that a qualified disadvantaged
5 individual or qualified displaced employee meets the eligibility
6 requirements specified in subparagraph (C) of paragraph (4) of
7 subdivision (b) or subparagraph (A) of paragraph (6) of
8 subdivision (b). The Employment Development Department may
9 provide preliminary screening and referral to a certifying agency.
10 The Employment Development Department shall develop a form
11 for this purpose. *Applications for this certification shall be*
12 *submitted to the certifying agency within 24 months of the*
13 *commencement date of employment with the taxpayer.*

14 (2) Retain a copy of the certification and provide it upon
15 request to the Franchise Tax Board.

16 (d) (1) For purposes of this section, both of the following
17 apply:

18 (A) All employees of trades or businesses that are under
19 common control shall be treated as employed by a single
20 employer.

21 (B) The credit (if any) allowable by this section with respect to
22 each trade or business shall be determined by reference to its
23 proportionate share of the qualified wages giving rise to the
24 credit.

25 The regulations prescribed under this paragraph shall be based
26 on principles similar to the principles that apply in the case of
27 controlled groups of corporations as specified in subdivision (e)
28 of Section 23622.

29 (2) If an employer acquires the major portion of a trade or
30 business of another employer (hereinafter in this paragraph
31 referred to as the “predecessor”) or the major portion of a
32 separate unit of a trade or business of a predecessor, then, for
33 purposes of applying this section (other than subdivision (d)) for
34 any calendar year ending after that acquisition, the employment
35 relationship between an employee and an employer shall not be
36 treated as terminated if the employee continues to be employed
37 in that trade or business.

38 (e) (1) (A) If the employment, other than seasonal
39 employment, of any employee, with respect to whom qualified
40 wages are taken into account under subdivision (a) is terminated

by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount (determined under those regulations) equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified disadvantaged individual, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the qualified taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified disadvantaged individual commences seasonal employment with the qualified taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified disadvantaged individual.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of an employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of an individual who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of an individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

1 (iv) A termination of employment of an individual due to a
2 substantial reduction in the trade or business operations of the
3 taxpayer.

4 (v) A termination of employment of an individual, if that
5 individual is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a
11 qualified disadvantaged individual who voluntarily fails to return
12 to the seasonal employment of the qualified taxpayer.

13 (ii) A failure to continue the seasonal employment of a
14 qualified disadvantaged individual who, before the close of the
15 period referred to in subparagraph (B) of paragraph (1), becomes
16 disabled and unable to perform the services of that seasonal
17 employment, unless that disability is removed before the close of
18 that period and the qualified taxpayer fails to offer seasonal
19 employment to that individual.

20 (iii) A failure to continue the seasonal employment of a
21 qualified disadvantaged individual, if it is determined that the
22 failure to continue the seasonal employment was due to the
23 misconduct (as defined in Sections 1256-30 to 1256-43,
24 inclusive, of Title 22 of the California Code of Regulations) of
25 that qualified disadvantaged individual.

26 (iv) A failure to continue seasonal employment of a qualified
27 disadvantaged individual due to a substantial reduction in the
28 regular seasonal trade or business operations of the qualified
29 taxpayer.

30 (v) A failure to continue the seasonal employment of a
31 qualified disadvantaged individual, if that individual is replaced
32 by other qualified displaced employees so as to create a net
33 increase in both the number of seasonal employees and the hours
34 of seasonal employment.

35 (C) For purposes of paragraph (1), the employment
36 relationship between the taxpayer and an employee shall not be
37 treated as terminated by reason of a mere change in the form of
38 conducting the trade or business of the taxpayer, if the employee
39 continues to be employed in that trade or business and the
40 taxpayer retains a substantial interest in that trade or business.

1 (3) Any increase in tax under paragraph (1) shall not be treated
2 as tax imposed by this part for purposes of determining the
3 amount of any credit allowable under this part.

4 (4) At the close of the second taxable year, if the taxpayer has
5 not increased the number of its employees as determined by
6 paragraph (5) of subdivision (b), then the amount of the credit
7 previously claimed shall be added to the taxpayer's net tax for
8 the taxpayer's second taxable year.

9 (f) In the case of an estate or trust, both of the following apply:

10 (1) The qualified wages for any taxable year shall be
11 apportioned between the estate or trust and the beneficiaries on
12 the basis of the income of the estate or trust allocable to each.

13 (2) Any beneficiary to whom any qualified wages have been
14 apportioned under paragraph (1) shall be treated (for purposes of
15 this part) as the employer with respect to those wages.

16 (g) The credit shall be reduced by the credit allowed under
17 Section 17053.7. The credit shall also be reduced by the federal
18 credit allowed under Section 51 of the Internal Revenue Code.

19 In addition, any deduction otherwise allowed under this part
20 for the wages or salaries paid or incurred by the taxpayer upon
21 which the credit is based shall be reduced by the amount of the
22 credit, prior to any reduction required by subdivision (h) or (i).

23 (h) In the case where the credit otherwise allowed under this
24 section exceeds the "net tax" for the taxable year, that portion of
25 the credit that exceeds the "net tax" may be carried over and
26 added to the credit, if any, in succeeding years, until the credit is
27 exhausted. The credit shall be applied first to the earliest taxable
28 years possible.

29 (i) (1) The amount of credit otherwise allowed under this
30 section and Section 17053.45, including prior year credit
31 carryovers, that may reduce the "net tax" for the taxable year
32 shall not exceed the amount of tax that would be imposed on the
33 taxpayer's business income attributed to a LAMBRA determined
34 as if that attributed income represented all of the net income of
35 the taxpayer subject to tax under this part.

36 (2) Attributable income shall be that portion of the taxpayer's
37 California source business income that is apportioned to the
38 LAMBRA. For that purpose, the taxpayer's business income that
39 is attributable to sources in this state first shall be determined in
40 accordance with Chapter 17 (commencing with Section 25101)

1 of Part 11. That business income shall be further apportioned to
2 the LAMBRA in accordance with Article 2 (commencing with
3 Section 25120) of Chapter 17 of Part 11, modified for purposes
4 of this section in accordance with paragraph (3).

5 (3) Income shall be apportioned to a LAMBRA by multiplying
6 the total California business income of the taxpayer by a fraction,
7 the numerator of which is the property factor plus the payroll
8 factor, and the denominator of which is two. For purposes of this
9 paragraph:

10 (A) The property factor is a fraction, the numerator of which is
11 the average value of the taxpayer's real and tangible personal
12 property owned or rented and used in the LAMBRA during the
13 taxable year, and the denominator of which is the average value
14 of all the taxpayer's real and tangible personal property owned or
15 rented and used in this state during the taxable year.

16 (B) The payroll factor is a fraction, the numerator of which is
17 the total amount paid by the taxpayer in the LAMBRA during the
18 taxable year for compensation, and the denominator of which is
19 the total compensation paid by the taxpayer in this state during
20 the taxable year.

21 (4) The portion of any credit remaining, if any, after
22 application of this subdivision, shall be carried over to
23 succeeding taxable years, as if it were an amount exceeding the
24 "net tax" for the taxable year, as provided in subdivision (h).

25 (j) If the taxpayer is allowed a credit pursuant to this section
26 for qualified wages paid or incurred, only one credit shall be
27 allowed to the taxpayer under this part with respect to any wage
28 consisting in whole or in part of those qualified wages.

29 (k) *The amendments made to this section by the act that added*
30 *this subdivision shall apply only to vouchers for hiring credits*
31 *issued after January 1, 2007.*

32 *SEC. 5. Section 17053.47 of the Revenue and Taxation Code*
33 *is amended to read:*

34 17053.47. (a) For each taxable year beginning on or after
35 January 1, 1998, there shall be allowed a credit against the "net
36 tax" (as defined in Section 17039) to a qualified taxpayer for
37 hiring a qualified disadvantaged individual during the taxable
38 year for employment in the Manufacturing Enhancement Area.
39 The credit shall be equal to the sum of each of the following:

1 (1) Fifty percent of the qualified wages in the first year of
2 employment.

3 (2) Forty percent of the qualified wages in the second year of
4 employment.

5 (3) Thirty percent of the qualified wages in the third year of
6 employment.

7 (4) Twenty percent of the qualified wages in the fourth year of
8 employment.

9 (5) Ten percent of the qualified wages in the fifth year of
10 employment.

11 (b) For purposes of this section:

12 (1) “Qualified wages” means:

13 (A) That portion of wages paid or incurred by the qualified
14 taxpayer during the taxable year to qualified disadvantaged
15 individuals that does not exceed 150 percent of the minimum
16 wage.

17 (B) The total amount of qualified wages which may be taken
18 into account for purposes of claiming the credit allowed under
19 this section shall not exceed two million dollars (\$2,000,000) per
20 taxable year.

21 (C) Wages received during the 60-month period beginning
22 with the first day the qualified disadvantaged individual
23 commences employment with the qualified taxpayer.
24 Reemployment in connection with any increase, including a
25 regularly occurring seasonal increase, in the trade or business
26 operations of the taxpayer does not constitute commencement of
27 employment for purposes of this section.

28 (D) Qualified wages do not include any wages paid or incurred
29 by the qualified taxpayer on or after the Manufacturing
30 Enhancement Area expiration date. However, wages paid or
31 incurred with respect to qualified employees who are employed
32 by the qualified taxpayer within the Manufacturing Enhancement
33 Area within the 60-month period prior to the Manufacturing
34 Enhancement Area expiration date shall continue to qualify for
35 the credit under this section after the Manufacturing
36 Enhancement Area expiration date, in accordance with all
37 provisions of this section applied as if the Manufacturing
38 Enhancement Area designation were still in existence and
39 binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Manufacturing Enhancement Area” means an area designated pursuant to Section 7073.8 of the Government Code according to the procedures of Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(4) “Manufacturing Enhancement Area expiration date” means the date the Manufacturing Enhancement Area designation expires, is no longer binding, or becomes inoperative.

(5) “Qualified disadvantaged individual” means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a Manufacturing Enhancement Area.

(ii) Who performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in the Manufacturing Enhancement Area.

(B) Who is hired by the qualified taxpayer after the designation of the area as a Manufacturing Enhancement Area in which the individual’s services were primarily performed.

(C) Who is any of the following immediately preceding the individual’s commencement of employment with the qualified taxpayer *as documented by the Manufacturing Enhancement Area coordinator*:

(i) ~~An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.)~~ *enrolled and documented in the California Job Training Automation System by an authorized WIA representative under the federal Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its successor.*

(ii) ~~Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985, or its successor, as provided pursuant to Article 3.2 (commencing with Section 11320)~~ *An individual receiving benefits under the California Work Opportunity and Responsibility to Kids program provided for pursuant to Article 3.2 (commencing with Section 11200) of*

1 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
2 Code.

3 (iii) Any individual who has been certified eligible by the
4 Employment Development Department under the federal
5 Targeted Jobs Tax Credit Program, or its successor, whether or
6 not this program is in effect.

7 (6) “Qualified taxpayer” means any taxpayer engaged in a
8 trade or business within a Manufacturing Enhancement Area
9 designated pursuant to Section 7073.8 of the Government Code
10 and who meets both of the following requirements:

11 (A) Is engaged in those lines of business described in Codes
12 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
13 inclusive, of the Standard Industrial Classification (SIC) Manual
14 published by the United States Office of Management and
15 Budget, 1987 edition.

16 (B) At least 50 percent of the qualified taxpayer’s workforce
17 hired after the designation of the Manufacturing Enhancement
18 Area is composed of individuals who, at the time of hire, are
19 residents of the county in which the Manufacturing Enhancement
20 Area is located.

21 (C) Of this percentage of local hires, at least 30 percent shall
22 be qualified disadvantaged individuals.

23 (7) “Seasonal employment” means employment by a qualified
24 taxpayer that has regular and predictable substantial reductions in
25 trade or business operations.

26 (c) (1) For purposes of this section, all of the following apply:

27 (A) All employees of trades or businesses that are under
28 common control shall be treated as employed by a single
29 qualified taxpayer.

30 (B) The credit (if any) allowable by this section with respect to
31 each trade or business shall be determined by reference to its
32 proportionate share of the expense of the qualified wages giving
33 rise to the credit and shall be allocated in that manner.

34 (C) Principles that apply in the case of controlled groups of
35 corporations, as specified in subdivision (d) of Section 23622.7,
36 shall apply with respect to determining employment.

37 (2) If a qualified taxpayer acquires the major portion of a trade
38 or business of another employer (hereinafter in this paragraph
39 referred to as the “predecessor”) or the major portion of a
40 separate unit of a trade or business of a predecessor, then, for

1 purposes of applying this section (other than subdivision (d)) for
2 any calendar year ending after that acquisition, the employment
3 relationship between a qualified disadvantaged individual and a
4 qualified taxpayer shall not be treated as terminated if the
5 qualified disadvantaged individual continues to be employed in
6 that trade or business.

7 (d) (1) (A) If the employment, other than seasonal
8 employment, of any qualified disadvantaged individual, with
9 respect to whom qualified wages are taken into account under
10 subdivision (b) is terminated by the qualified taxpayer at any
11 time during the first 270 days of that employment (whether or not
12 consecutive) or before the close of the 270th calendar day after
13 the day in which that qualified disadvantaged individual
14 completes 90 days of employment with the qualified taxpayer,
15 the tax imposed by this part for the taxable year in which that
16 employment is terminated shall be increased by an amount equal
17 to the credit allowed under subdivision (a) for that taxable year
18 and all prior taxable years attributable to qualified wages paid or
19 incurred with respect to that qualified disadvantaged individual.

20 (B) If the seasonal employment of any qualified disadvantaged
21 individual, with respect to whom qualified wages are taken into
22 account under subdivision (a) is not continued by the qualified
23 taxpayer for a period of 270 days of employment during the
24 60-month period beginning with the day the qualified
25 disadvantaged individual commences seasonal employment with
26 the qualified taxpayer, the tax imposed by this part, for the
27 taxable year that includes the 60th month following the month in
28 which the qualified disadvantaged individual commences
29 seasonal employment with the qualified taxpayer, shall be
30 increased by an amount equal to the credit allowed under
31 subdivision (a) for that taxable year and all prior taxable years
32 attributable to qualified wages paid or incurred with respect to
33 that qualified disadvantaged individual.

34 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
35 any of the following:

36 (i) A termination of employment of a qualified disadvantaged
37 individual who voluntarily leaves the employment of the
38 qualified taxpayer.

39 (ii) A termination of employment of a qualified disadvantaged
40 individual who, before the close of the period referred to in

subparagraph (A) of paragraph (1), becomes disabled to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that individual.

(iii) A termination of employment of a qualified disadvantaged individual, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that individual.

(iv) A termination of employment of a qualified disadvantaged individual due to a substantial reduction in the trade or business operations of the qualified taxpayer.

(v) A termination of employment of a qualified disadvantaged individual, if that individual is replaced by other qualified disadvantaged individuals so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified disadvantaged individual who voluntarily fails to return to the seasonal employment of the qualified taxpayer.

(ii) A failure to continue the seasonal employment of a qualified disadvantaged individual who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the qualified taxpayer fails to offer seasonal employment to that qualified disadvantaged individual.

(iii) A failure to continue the seasonal employment of a qualified disadvantaged individual, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified disadvantaged individual.

(iv) A failure to continue seasonal employment of a qualified disadvantaged individual due to a substantial reduction in the regular seasonal trade or business operations of the qualified taxpayer.

(v) A failure to continue the seasonal employment of a qualified disadvantaged individual, if that qualified

1 disadvantaged individual is replaced by other qualified
2 disadvantaged individuals so as to create a net increase in both
3 the number of seasonal employees and the hours of seasonal
4 employment.

5 (C) For purposes of paragraph (1), the employment
6 relationship between the qualified taxpayer and a qualified
7 disadvantaged individual shall not be treated as terminated by
8 reason of a mere change in the form of conducting the trade or
9 business of the qualified taxpayer, if the qualified disadvantaged
10 individual continues to be employed in that trade or business and
11 the qualified taxpayer retains a substantial interest in that trade or
12 business.

13 (3) Any increase in tax under paragraph (1) shall not be treated
14 as tax imposed by this part for purposes of determining the
15 amount of any credit allowable under this part.

16 (e) In the case of an estate or trust, both of the following
17 apply:

18 (1) The qualified wages for any taxable year shall be
19 apportioned between the estate or trust and the beneficiaries on
20 the basis of the income of the estate or trust allocable to each.

21 (2) Any beneficiary to whom any qualified wages have been
22 apportioned under paragraph (1) shall be treated (for purposes of
23 this part) as the employer with respect to those wages.

24 (f) The credit shall be reduced by the credit allowed under
25 Section 17053.7. The credit shall also be reduced by the federal
26 credit allowed under Section 51 of the Internal Revenue Code.

27 In addition, any deduction otherwise allowed under this part
28 for the wages or salaries paid or incurred by the qualified
29 taxpayer upon which the credit is based shall be reduced by the
30 amount of the credit, prior to any reduction required by
31 subdivision (g) or (h).

32 (g) In the case where the credit otherwise allowed under this
33 section exceeds the “net tax” for the taxable year, that portion of
34 the credit that exceeds the “net tax” may be carried over and
35 added to the credit, if any, in succeeding years, until the credit is
36 exhausted. The credit shall be applied first to the earliest taxable
37 years possible.

38 (h) (1) The amount of credit otherwise allowed under this
39 section, including prior year credit carryovers, that may reduce
40 the “net tax” for the taxable year shall not exceed the amount of

1 tax that would be imposed on the qualified taxpayer's business
2 income attributed to a Manufacturing Enhancement Area
3 determined as if that attributed income represented all of the net
4 income of the qualified taxpayer subject to tax under this part.

5 (2) Attributable income shall be that portion of the taxpayer's
6 California source business income that is apportioned to the
7 Manufacturing Enhancement Area. For that purpose, the
8 taxpayer's business income that is attributable to sources in this
9 state first shall be determined in accordance with Chapter 17
10 (commencing with Section 25101) of Part 11. That business
11 income shall be further apportioned to the Manufacturing
12 Enhancement Area in accordance with Article 2 (commencing
13 with Section 25120) of Chapter 17 of Part 11, modified for
14 purposes of this section in accordance with paragraph (3).

15 (3) Income shall be apportioned to a Manufacturing
16 Enhancement Area by multiplying the total California business
17 income of the taxpayer by a fraction, the numerator of which is
18 the property factor plus the payroll factor, and the denominator of
19 which is two. For purposes of this paragraph:

20 (A) The property factor is a fraction, the numerator of which is
21 the average value of the taxpayer's real and tangible personal
22 property owned or rented and used in the Manufacturing
23 Enhancement Area during the taxable year, and the denominator
24 of which is the average value of all the taxpayer's real and
25 tangible personal property owned or rented and used in this state
26 during the taxable year.

27 (B) The payroll factor is a fraction, the numerator of which is
28 the total amount paid by the taxpayer in the Manufacturing
29 Enhancement Area during the taxable year for compensation, and
30 the denominator of which is the total compensation paid by the
31 taxpayer in this state during the taxable year.

32 (4) The portion of any credit remaining, if any, after
33 application of this subdivision, shall be carried over to
34 succeeding taxable years, as if it were an amount exceeding the
35 "net tax" for the taxable year, as provided in subdivision (g).

36 (i) If the taxpayer is allowed a credit pursuant to this section
37 for qualified wages paid or incurred, only one credit shall be
38 allowed to the taxpayer under this part with respect to any wage
39 consisting in whole or in part of those qualified wages.

1 (j) For vouchers for hiring credits issued after January 1,
2 2007, the qualified taxpayer shall do both of the following:

3 (1) Obtain from the Employment Development Department, as
4 permitted by federal law, the local county or city Workforce
5 Investment Act (or its successor) administrative entity, the local
6 social services agency, or the local government administering the
7 Manufacturing Enhancement Area, a certification that provides
8 that a qualified disadvantaged individual meets the eligibility
9 requirements specified in paragraph (5) of subdivision (b). The
10 Employment Development Department may provide preliminary
11 screening and referral to a certifying agency. The Employment
12 Development Department shall develop a form for this purpose.
13 Applications for this certification shall be submitted to the
14 certifying agency within 24 months of the commencement date of
15 employment with the taxpayer.

16 (2) Retain a copy of the certification and provide it upon
17 request to the Franchise Tax Board.

18 SEC. 6. Section 17053.74 of the Revenue and Taxation Code
19 is amended to read:

20 17053.74. (a) There shall be allowed a credit against the “net
21 tax” (as defined in Section 17039) to a taxpayer who employs a
22 qualified employee in an enterprise zone during the taxable year.
23 The credit shall be equal to the sum of each of the following:

24 (1) Fifty percent of qualified wages in the first year of
25 employment.

26 (2) Forty percent of qualified wages in the second year of
27 employment.

28 (3) Thirty percent of qualified wages in the third year of
29 employment.

30 (4) Twenty percent of qualified wages in the fourth year of
31 employment.

32 (5) Ten percent of qualified wages in the fifth year of
33 employment.

34 (b) For purposes of this section:

35 (1) “Qualified wages” means:

36 (A) (i) Except as provided in clause (ii), that portion of wages
37 paid or incurred by the taxpayer during the taxable year to
38 qualified employees that does not exceed 150 percent of the
39 minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following, *as documented by the enterprise zone coordinator*:

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person ~~eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.)~~ *enrolled and documented in the California Job Training Automation System by an authorized WIA representative under the federal Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.*

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person ~~eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) receiving benefits under the California Work Opportunity and Responsibility to Kids program pursuant to Article 3.2 (commencing with Section 11200) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older. *For purposes of this section, "economically disadvantaged individual" means an individual who meets the definition of that term under the Workforce Investment Act, or its successor.*

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a ~~dislocated worker who meets any of the following:~~ *worker. For purposes of this section, a "dislocated worker" means an individual who meets the definition of that term under the Workforce Investment Act, or its successor.*

~~(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.~~

~~(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure~~

1 ~~or any substantial layoff at a plant, facility, or enterprise,~~
2 ~~including an individual who has not received written notification~~
3 ~~but whose employer has made a public announcement of the~~
4 ~~closure or layoff.~~

5 ~~(ee) Is long-term unemployed and has limited opportunities for~~
6 ~~employment or reemployment in the same or a similar~~
7 ~~occupation in the area in which the individual resides, including~~
8 ~~an individual 55 years of age or older who may have substantial~~
9 ~~barriers to employment by reason of age.~~

10 ~~(dd) Was self-employed (including farmers and ranchers) and~~
11 ~~is unemployed as a result of general economic conditions in the~~
12 ~~community in which he or she resides or because of natural~~
13 ~~disasters.~~

14 ~~(ee) Was a civilian employee of the Department of Defense~~
15 ~~employed at a military installation being closed or realigned~~
16 ~~under the Defense Base Closure and Realignment Act of 1990.~~

17 ~~(ff) Was an active member of the armed forces or National~~
18 ~~Guard as of September 30, 1990, and was either involuntarily~~
19 ~~separated or separated pursuant to a special benefits program.~~

20 ~~(gg) Is a seasonal or migrant worker who experiences chronic~~
21 ~~seasonal unemployment and underemployment in the agriculture~~
22 ~~industry, aggravated by continual advancements in technology~~
23 ~~and mechanization.~~

24 ~~(hh) Has been terminated or laid off, or has received a notice~~
25 ~~of termination or layoff, as a consequence of compliance with the~~
26 ~~Clean Air Act.~~

27 (V) Immediately preceding the qualified employee's
28 commencement of employment with the taxpayer, was a disabled
29 individual who is eligible for or enrolled in, or has completed a
30 state rehabilitation ~~plan or is a plan.~~

31 *(VI) Is a service-connected disabled veteran, veteran of the*
32 *Vietnam era, or veteran who is recently separated from military*
33 *service an individual who served in the active military, naval, or*
34 *air service, and who was discharged or released from that*
35 *service under conditions other than dishonorable, or any veteran*
36 *who was discharged or released in the last 48 months from active*
37 *military, naval, or an air service.*

38 ~~(VI) Immediately preceding the qualified employee's~~
39 ~~commencement of employment with the taxpayer, was an~~
40 ~~ex-offender.~~

1 (VII) *Has a prior felony conviction.* An individual shall be
2 treated as convicted if he or she was placed on probation by a
3 state court without a finding of guilt.

4 ~~(VII)–~~

5 (VIII) Immediately preceding the qualified employee's
6 commencement of employment with the taxpayer, was a person
7 ~~eligible for or a recipient of~~ receiving any of the following
8 *benefits:*

9 (aa) Federal Supplemental Security Income benefits.

10 (bb) ~~Aid to Families with Dependent Children~~ *Temporary*
11 *Assistance for Needy Families.*

12 (cc) Food stamps.

13 (dd) State and local general assistance.

14 ~~(VIII)–~~

15 (IX) Immediately preceding the qualified employee's
16 commencement of employment with the taxpayer, was a member
17 of a federally recognized Indian tribe, band, or other group of
18 Native American descent.

19 ~~(IX)–~~

20 (X) Immediately preceding the qualified employee's
21 commencement of employment with the taxpayer, was a resident
22 of a targeted employment area, as defined in Section 7072 of the
23 Government Code.

24 ~~(X) An employee who qualified the taxpayer for the enterprise~~
25 ~~zone hiring credit under former Section 17053.8 or the program~~
26 ~~area hiring credit under former Section 17053.11.~~

27 (XI) Immediately preceding the qualified employee's
28 commencement of employment with the taxpayer, was a member
29 of a targeted group, as defined in Section 51(d) of the Internal
30 Revenue Code, or its successor.

31 (B) Priority for employment shall be provided to an individual
32 who is enrolled in a qualified program under the federal ~~Job~~
33 ~~Training Partnership Workforce Investment Act, or its successor,~~
34 ~~or the Greater Avenues for Independence Act of 1985~~ *California*
35 *Work Opportunity and Responsibility to Kids program* or who is
36 eligible as a member of a targeted group under the Work
37 Opportunity Tax Credit (Section 51 of the Internal Revenue
38 Code), or its successor.

39 (5) "Taxpayer" means a person or entity engaged in a trade or
40 business within an enterprise zone designated pursuant to

Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) “Seasonal employment” means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the *enterprise zone coordinator designated by the local jurisdiction in which the employee is employed or, if serving that enterprise zone, the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Workforce Investment Act (or its successor) administrative entity, or the local county-GAIN CalWORKs office or social services agency, or the local government administering the enterprise zone its successors*, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code. *Applications for this certification shall be submitted to the certifying agency within 24 months of the commencement date of employment with the taxpayer.*

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that

1 employment, unless that disability is removed before the close of
2 that period and the taxpayer fails to offer reemployment to that
3 employee.

4 (iii) A termination of employment of a qualified employee, if
5 it is determined that the termination was due to the misconduct
6 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
7 of the California Code of Regulations) of that employee.

8 (iv) A termination of employment of a qualified employee due
9 to a substantial reduction in the trade or business operations of
10 the taxpayer.

11 (v) A termination of employment of a qualified employee, if
12 that employee is replaced by other qualified employees so as to
13 create a net increase in both the number of employees and the
14 hours of employment.

15 (B) Subparagraph (B) of paragraph (1) shall not apply to any
16 of the following:

17 (i) A failure to continue the seasonal employment of a
18 qualified employee who voluntarily fails to return to the seasonal
19 employment of the taxpayer.

20 (ii) A failure to continue the seasonal employment of a
21 qualified employee who, before the close of the period referred to
22 in subparagraph (B) of paragraph (1), becomes disabled and
23 unable to perform the services of that seasonal employment,
24 unless that disability is removed before the close of that period
25 and the taxpayer fails to offer seasonal employment to that
26 qualified employee.

27 (iii) A failure to continue the seasonal employment of a
28 qualified employee, if it is determined that the failure to continue
29 the seasonal employment was due to the misconduct (as defined
30 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
31 California Code of Regulations) of that qualified employee.

32 (iv) A failure to continue seasonal employment of a qualified
33 employee due to a substantial reduction in the regular seasonal
34 trade or business operations of the taxpayer.

35 (v) A failure to continue the seasonal employment of a
36 qualified employee, if that qualified employee is replaced by
37 other qualified employees so as to create a net increase in both
38 the number of seasonal employees and the hours of seasonal
39 employment.

1 (C) For purposes of paragraph (1), the employment
2 relationship between the taxpayer and a qualified employee shall
3 not be treated as terminated by reason of a mere change in the
4 form of conducting the trade or business of the taxpayer, if the
5 qualified employee continues to be employed in that trade or
6 business and the taxpayer retains a substantial interest in that
7 trade or business.

8 (3) Any increase in tax under paragraph (1) shall not be treated
9 as tax imposed by this part for purposes of determining the
10 amount of any credit allowable under this part.

11 (f) In the case of an estate or trust, both of the following apply:

12 (1) The qualified wages for any taxable year shall be
13 apportioned between the estate or trust and the beneficiaries on
14 the basis of the income of the estate or trust allocable to each.

15 (2) Any beneficiary to whom any qualified wages have been
16 apportioned under paragraph (1) shall be treated, for purposes of
17 this part, as the employer with respect to those wages.

18 (g) For purposes of this section, “enterprise zone” means an
19 area designated as an enterprise zone pursuant to Chapter 12.8
20 (commencing with Section 7070) of Division 7 of Title 1 of the
21 Government Code.

22 (h) The credit allowable under this section shall be reduced by
23 the credit allowed under Sections 17053.10, 17053.17 and
24 17053.46 claimed for the same employee. The credit shall also be
25 reduced by the federal credit allowed under Section 51 of the
26 Internal Revenue Code.

27 In addition, any deduction otherwise allowed under this part
28 for the wages or salaries paid or incurred by the taxpayer upon
29 which the credit is based shall be reduced by the amount of the
30 credit, prior to any reduction required by subdivision (i) or (j).

31 (i) In the case where the credit otherwise allowed under this
32 section exceeds the “net tax” for the taxable year, that portion of
33 the credit that exceeds the “net tax” may be carried over and
34 added to the credit, if any, in succeeding taxable years, until the
35 credit is exhausted. The credit shall be applied first to the earliest
36 taxable years possible.

37 (j) (1) The amount of the credit otherwise allowed under this
38 section and Section 17053.70, including any credit carryover
39 from prior years, that may reduce the “net tax” for the taxable
40 year shall not exceed the amount of tax which would be imposed

1 on the taxpayer's business income attributable to the enterprise
2 zone determined as if that attributable income represented all of
3 the income of the taxpayer subject to tax under this part.

4 (2) Attributable income shall be that portion of the taxpayer's
5 California source business income that is apportioned to the
6 enterprise zone. For that purpose, the taxpayer's business income
7 attributable to sources in this state first shall be determined in
8 accordance with Chapter 17 (commencing with Section 25101)
9 of Part 11. That business income shall be further apportioned to
10 the enterprise zone in accordance with Article 2 (commencing
11 with Section 25120) of Chapter 17 of Part 11, modified for
12 purposes of this section in accordance with paragraph (3).

13 (3) Business income shall be apportioned to the enterprise
14 zone by multiplying the total California business income of the
15 taxpayer by a fraction, the numerator of which is the property
16 factor plus the payroll factor, and the denominator of which is
17 two. For purposes of this paragraph:

18 (A) The property factor is a fraction, the numerator of which is
19 the average value of the taxpayer's real and tangible personal
20 property owned or rented and used in the enterprise zone during
21 the taxable year, and the denominator of which is the average
22 value of all the taxpayer's real and tangible personal property
23 owned or rented and used in this state during the taxable year.

24 (B) The payroll factor is a fraction, the numerator of which is
25 the total amount paid by the taxpayer in the enterprise zone
26 during the taxable year for compensation, and the denominator of
27 which is the total compensation paid by the taxpayer in this state
28 during the taxable year.

29 (4) The portion of any credit remaining, if any, after
30 application of this subdivision, shall be carried over to
31 succeeding taxable years, as if it were an amount exceeding the
32 "net tax" for the taxable year, as provided in subdivision (i).

33 (k) The changes made to this section by the act adding this
34 subdivision shall apply to taxable years beginning on or after
35 January 1, 1997.

36 (l) *The amendments made to this section by the act adding this*
37 *subdivision shall apply to taxable years beginning on or after*
38 *January 1, 2007, and to vouchers for hiring credits issued after*
39 *that date.*

1 *SEC. 7. Section 17235 of the Revenue and Taxation Code is*
2 *amended to read:*

3 17235. (a) There shall be allowed as a deduction the amount
4 of net interest received by the taxpayer in payment on
5 indebtedness of a person or entity engaged in the conduct of a
6 trade or business located in an enterprise zone.

7 (b) No deduction shall be allowed under this section unless at
8 the time the indebtedness is incurred each of the following
9 requirements are met:

10 (1) The trade or business *qualifying the lender for the*
11 *deduction is physically located*~~solely~~ *within an enterprise zone.*
12 *Debtors physically located within and outside the enterprise zone*
13 *shall not qualify the lender for the deduction for loans made*
14 *within the zone.*

15 (2) The indebtedness is incurred solely in connection with
16 activity within the enterprise zone. *Lenders shall verify and*
17 *document that the proceeds from loans made to taxpayers in the*
18 *enterprise zone are spent within the enterprise zone.*

19 (3) The taxpayer has no equity or other ownership interest in
20 the debtor.

21 (c) "Enterprise zone" means an area designated as an
22 enterprise zone pursuant to Chapter 12.8 (commencing with
23 Section 7070) of Division 7 of Title 1 of the Government Code.

24 *SEC. 8. Section 17267.2 of the Revenue and Taxation Code is*
25 *amended to read:*

26 17267.2. (a) A taxpayer may elect to treat~~40~~ 60 percent of
27 the cost of any Section 17267.2 property as an expense which is
28 not chargeable to a capital account. Any cost so treated shall be
29 allowed as a deduction for the taxable year in which the taxpayer
30 places the Section 17267.2 property in service.

31 (b) In the case of a husband and wife filing separate returns for
32 a taxable year, the applicable amount under subdivision (a) shall
33 be equal to 50 percent of the percentage specified in subdivision
34 (a).

35 (c) (1) An election under this section for any taxable year
36 shall do both of the following:

37 (A) Specify the items of Section 17267.2 property to which
38 the election applies and the percentage of the cost of each of
39 those items that are to be taken into account under subdivision
40 (a).

1 (B) Be made on the taxpayer's original return of the tax
2 imposed by this part for the taxable year.

3 (2) Any election made under this section, and any
4 specification contained in that election, may not be revoked
5 except with the consent of the Franchise Tax Board.

6 (d) (1) For purposes of this section, "Section 17267.2
7 property" means any recovery property that is:

8 (A) Section 1245 property (as defined in Section 1245(a) (3)
9 of the Internal Revenue Code).

10 (B) Purchased and placed in service by the taxpayer for
11 exclusive use in a trade or business conducted within an
12 enterprise zone designated pursuant to Chapter 12.8
13 (commencing with Section 7070) of Division 7 of Title 1 of the
14 Government Code.

15 (C) Purchased and placed in service before the date the
16 enterprise zone designation expires, is no longer binding, or
17 becomes inoperative.

18 (2) For purposes of paragraph (1), "purchase" means any
19 acquisition of property, but only if both of the following apply:

20 (A) The property is not acquired from a person whose
21 relationship to the person acquiring it would result in the
22 disallowance of losses under Section 267 or Section 707 (b) of
23 the Internal Revenue Code. However, in applying Section 267(b)
24 and 267(c) for purposes of this section, Section 267(c) (4) shall
25 be treated as providing that the family of an individual shall
26 include only the individual's spouse, ancestors, and lineal
27 descendants.

28 (B) The basis of the property in the hands of the person
29 acquiring it is not determined in whole or in part by reference to
30 the adjusted basis of that property in the hands of the person from
31 whom it is acquired.

32 (3) For purposes of this section, the cost of property does not
33 include that portion of the basis of the property that is determined
34 by reference to the basis of other property held at any time by the
35 person acquiring the property.

36 (4) This section shall not apply to estates and trusts.

37 (5) This section shall not apply to any property for which the
38 taxpayer may not make an election for the taxable year under
39 Section 179 of the Internal Revenue Code because of the

1 application of the provisions of Section 179(d) of the Internal
2 Revenue Code.

3 (6) In the case of a partnership, the percentage limitation
4 specified in subdivision (a) shall apply at the partnership level
5 and at the partner level.

6 (e) For purposes of this section, “taxpayer” means a person or
7 entity who conducts a trade or business within an enterprise zone
8 designated pursuant to Chapter 12.8 (commencing with Section
9 7070) of Division 7 of Title 1 of the Government Code.

10 (f) Any taxpayer who elects to be subject to this section shall
11 not be entitled to claim for the same property, the deduction
12 under Section 179 of the Internal Revenue Code, relating to an
13 election to expense certain depreciable business assets. However,
14 the taxpayer may claim depreciation by any method permitted by
15 Section 168 of the Internal Revenue Code, commencing with the
16 taxable year following the taxable year in which the Section
17 17267.2 property is placed in service.

18 (g) The aggregate cost of all Section 17267.2 property that
19 may be taken into account under subdivision (a) for any taxable
20 year shall not exceed ~~the following applicable amount for the~~
21 ~~taxable year of the designation of the relevant enterprise zone~~
22 ~~and taxable years thereafter: one hundred thousand dollars~~
23 ~~(\$100,000).~~

24		
25	-	The applicable
26	-	amount is:
27	Taxable year of designation.....	\$100,000
28	1st taxable year thereafter.....	100,000
29	2nd taxable year thereafter.....	75,000
30	3rd taxable year thereafter.....	75,000
31	Each taxable year thereafter.....	50,000
32		

33 (h) Any amounts deducted under subdivision (a) with respect
34 to property subject to this section that ceases to be used in the
35 taxpayer’s trade or business within an enterprise zone at any time
36 before the close of the second taxable year after the property is
37 placed in service shall be included in income in the taxable year
38 in which the property ceases to be so used.

39 *SEC. 9. Section 17267.6 of the Revenue and Taxation Code is*
40 *amended to read:*

17267.6. (a) For each taxable year beginning on or after January 1, 1998, a qualified taxpayer may elect to treat ~~40-60~~ percent of the cost of any Section 17267.6 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified taxpayer places the Section 17267.6 property in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 17267.6 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the qualified taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17267.6 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the qualified taxpayer for exclusive use in a trade or business conducted within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(C) Purchased and placed in service before the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707(b) of the Internal Revenue Code. However, in applying Sections 267(b) and 267(c) for purposes of this section, Section 267(c)(4) shall be

1 treated as providing that the family of an individual shall include
2 only the individual's spouse, ancestors, and lineal descendants.

3 (B) The basis of the property in the hands of the person
4 acquiring it is not determined in whole or in part by reference to
5 the adjusted basis of that property in the hands of the person from
6 whom it is acquired.

7 (3) For purposes of this section, the cost of property does not
8 include that portion of the basis of the property that is determined
9 by reference to the basis of other property held at any time by the
10 person acquiring the property.

11 (4) This section shall not apply to estates and trusts.

12 (5) This section shall not apply to any property for which the
13 qualified taxpayer may not make an election for the taxable year
14 under Section 179 of the Internal Revenue Code because of the
15 application of the provisions of Section 179(d) of the Internal
16 Revenue Code.

17 (6) In the case of a partnership, the percentage limitation
18 specified in subdivision (a) shall apply at the partnership level
19 and at the partner level.

20 (e) (1) For purposes of this section, "qualified taxpayer"
21 means a person or entity that meets both of the following:

22 (A) Is engaged in a trade or business within a targeted tax area
23 designated pursuant to Chapter 12.93 (commencing with Section
24 7097) of Division 7 of Title 1 of the Government Code.

25 (B) Is engaged in those lines of business described in Codes
26 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
27 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
28 of the Standard Industrial Classification (SIC) Manual published
29 by the United State Office of Management and Budget, 1987
30 edition.

31 (2) In the case of any pass-through entity, the determination of
32 whether a taxpayer is a qualified taxpayer under this section shall
33 be made at the entity level and any deduction under this section
34 or Section 24356.6 shall be allowed to the pass-through entity
35 and passed through to the partners or shareholders in accordance
36 with applicable provisions of this part of Part 11 (commencing
37 with Section 23001). For purposes of this subparagraph, the term
38 "pass-through entity" means any partnership or S corporation.

39 (f) Any qualified taxpayer who elects to be subject to this
40 section shall not be entitled to claim for the same property, the

deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets. However, the qualified taxpayer may claim depreciation by any method permitted by Section 168 of the Internal Revenue Code, commencing with the taxable year following the taxable year in which the Section 17267.6 property is placed in service.

(g) The aggregate cost of all Section 17267.6 property that may be taken into account under subdivision (a) for any taxable year shall not exceed ~~the following applicable amount for the taxable year of the designation of the relevant targeted tax area and taxable years thereafter:~~ *one hundred thousand dollars (\$100,000).*

	The applicable amount is:
-	
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(h) Any amounts deducted under subdivision (a) with respect to Section 17267.6 property that ceases to be used in the qualified taxpayer's trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

SEC. 10. Section 17268 of the Revenue and Taxation Code is amended to read:

17268. (a) For each taxable year beginning on or after January 1, 1995, a taxpayer may elect to treat ~~40~~ 60 percent of the cost of any Section 17268 property as an expense that is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 17268 property in service.

(b) In the case of a husband or wife filing separate returns for a taxable year in which a spouse is entitled to the deduction under subdivision (a), the applicable amount shall be equal to 50 percent of the amount otherwise determined under subdivision (a).

(c) (1) An election under this section for any taxable year shall meet both of the following requirements:

(A) Specify the items of Section 17268 property to which the election applies and the portion of the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17268 property" means any recovery property that is each of the following:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased by the taxpayer for exclusive use in a trade or business conducted within a LAMBRA.

(C) Purchased before the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or 707(b) of the Internal Revenue Code (but, in applying Section 267(b) and Section 267(c) of the Internal Revenue Code for purposes of this section, Section 267(c)(4) of the Internal Revenue Code shall be treated as providing that the family of an individual shall include only his or her spouse, ancestors, and lineal descendants).

(B) The basis of the property in the hands of the person acquiring it is not determined by either of the following:

(i) In whole or in part by reference to the adjusted basis of the property in the hands of the person from whom acquired.

(ii) Under Section 1014 of the Internal Revenue Code, relating to basis of property acquired from a decedent.

(3) For purposes of this section, the cost of property does not include that portion of the basis of the property that is determined by reference to the basis of other property held at any time by the person acquiring the property.

(4) This section shall not apply to estates and trusts.

1 (5) This section shall not apply to any property for which the
2 taxpayer may not make an election for the taxable year under
3 Section 179 of the Internal Revenue Code because of the
4 provisions of Section 179(d) of the Internal Revenue Code.

5 (6) In the case of a partnership, the dollar limitation in
6 subdivision (f) shall apply at the partnership level and at the
7 partner level.

8 (7) This section shall not apply to any property described in
9 Section 168(f) of the Internal Revenue Code, relating to property
10 to which Section 168 of the Internal Revenue Code does not
11 apply.

12 (e) For purposes of this section:

13 (1) “LAMBRA” means a local agency military base recovery
14 area designated in accordance with the provisions of Section
15 7114 of the Government Code.

16 (2) “Taxpayer” means a taxpayer that conducts a trade or
17 business within a LAMBRA and, for the first two taxable years,
18 has a net increase in jobs (defined as 2,000 paid hours per
19 employee per year) of one or more employees in the LAMBRA.

20 (A) The net increase in the number of jobs shall be determined
21 by subtracting the total number of full-time employees (defined
22 as 2,000 paid hours per employee per year) the taxpayer
23 employed in this state in the taxable year prior to commencing
24 business operations in the LAMBRA from the total number of
25 full-time employees the taxpayer employed in this state during
26 the second taxable year after commencing business operations in
27 the LAMBRA. For taxpayers who commence doing business in
28 this state with their LAMBRA business operation, the number of
29 employees for the taxable year prior to commencing business
30 operations in the LAMBRA shall be zero. If the taxpayer has a
31 net increase in jobs in the state, the credit shall be allowed only if
32 one or more full-time employees is employed within the
33 LAMBRA.

34 (B) The total number of employees employed in the
35 LAMBRA shall equal the sum of both of the following:

36 (i) The total number of hours worked in the LAMBRA for the
37 taxpayer by employees (not to exceed 2,000 hours per employee)
38 who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer who first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B) the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(f) The aggregate cost of all Section 17268 property that may be taken into account under subdivision (a) for any taxable year shall not exceed ~~the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:~~ *one hundred thousand dollars (\$100,000).*

	The applicable
	amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	—100,000
2nd taxable year thereafter.....	—75,000
3rd taxable year thereafter.....	—75,000
Each taxable year thereafter.....	—50,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (e), then the amount of the deduction previously claimed shall be added to the taxpayer’s taxable income for the taxpayer’s second taxable year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

SEC. 11. Section 17276.2 of the Revenue and Taxation Code is amended to read:

17276.2. (a) The term “qualified taxpayer” as used in Section 17276.1 includes a person or entity engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback to any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the taxpayer conducts a trade or business is designated as an enterprise zone shall be a net operating loss carryover to each of the 17 taxable years following the taxable year of loss.

(2) For purposes of this subdivision:

(A) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 17276.1, attributable to the taxpayer’s business activities within the enterprise zone (as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code) prior to the enterprise zone expiration date. That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11, modified for purposes of this subdivision, as follows:

(i) Loss shall be apportioned to the enterprise zone by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two.

(ii) “The enterprise zone” shall be substituted for “this state.”

(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer’s business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing

1 with Section 25120) of Chapter 17 of Part 11, modified for
2 purposes of this subdivision as follows:

3 (i) Business income shall be apportioned to the enterprise zone
4 by multiplying the total California business income of the
5 taxpayer by a fraction, the numerator of which is the property
6 factor plus the payroll factor, and the denominator of which is
7 two. For purposes of this clause:

8 (I) The property factor is a fraction, the numerator of which is
9 the average value of the taxpayer's real and tangible personal
10 property owned or rented and used in the enterprise zone during
11 the taxable year, and the denominator of which is the average
12 value of all the taxpayer's real and tangible personal property
13 owned or rented and used in this state during the taxable year.

14 (II) The payroll factor is a fraction, the numerator of which is
15 the total amount paid by the taxpayer in the enterprise zone
16 during the taxable year for compensation, and the denominator of
17 which is the total compensation paid by the taxpayer in this state
18 during the taxable year.

19 (ii) If a loss carryover is allowable pursuant to this section for
20 any taxable year after the enterprise zone designation has
21 expired, the enterprise zone shall be deemed to remain in
22 existence for purposes of computing the limitation set forth in
23 subparagraph (B) and allowing a net operating loss deduction.

24 ~~(D)~~

25 (B) "Enterprise zone expiration date" means the date the
26 enterprise zone designation expires, is no longer binding, or
27 becomes inoperative.

28 (3) The changes made to this subdivision by the act adding
29 this paragraph shall apply to taxable years beginning on or after
30 January 1, 1998.

31 (b) A taxpayer who qualifies as a "qualified taxpayer" under
32 one or more sections shall, for the taxable year of the net
33 operating loss and any taxable year to which that net operating
34 loss may be carried, designate on the original return filed for
35 each year the section which applies to that taxpayer with respect
36 to that net operating loss. If the taxpayer is eligible to qualify
37 under more than one section, the designation is to be made after
38 taking into account subdivision (c).

39 (c) If a taxpayer is eligible to qualify under this section and
40 either Section 17276.4, 17276.5, or 17276.6 as a "qualified

taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.4, 17276.5, or 17276.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

SEC. 12. Section 17276.5 of the Revenue and Taxation Code is amended to read:

17276.5. (a) For each taxable year beginning on or after January 1, 1995, the term “qualified taxpayer” as used in Section 17276.1 includes a taxpayer engaged in the conduct of a trade or business within a LAMBRA. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year, and a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following taxable year that ends before the LAMBRA expiration date or to each of the ~~15~~ 17 taxable years following the taxable year of loss, if longer.

(2) “LAMBRA” means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(3) “Taxpayer” means a person or entity that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state. For purposes of this paragraph:

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of

1 employees for the taxable year prior to commencing business
2 operations in the LAMBRA shall be zero. The deduction shall be
3 allowed only if the taxpayer has a net increase in jobs in the state,
4 and if one or more full-time employees is employed within the
5 LAMBRA.

6 (B) The total number of employees employed in the
7 LAMBRA shall equal the sum of both of the following:

8 (i) The total number of hours worked in the LAMBRA for the
9 taxpayer by employees (not to exceed 2,000 hours per employee)
10 who are paid an hourly wage divided by 2,000.

11 (ii) The total number of months worked in the LAMBRA for
12 the taxpayer by employees who are salaried employees divided
13 by 12.

14 (C) In the case of a taxpayer who first commences doing
15 business in the LAMBRA during the taxable year, for purposes
16 of clauses (i) and (ii), respectively, of subparagraph (B), the
17 divisors “2,000” and “12” shall be multiplied by a fraction, the
18 numerator of which is the number of months of the taxable year
19 that the taxpayer was doing business in the LAMBRA and the
20 denominator of which is 12.

21 (4) “Net operating loss” means the loss determined under
22 Section 172 of the Internal Revenue Code, as modified by
23 Section 17276.1, attributable to the taxpayer’s business activities
24 within a LAMBRA prior to the LAMBRA expiration date. ~~The~~
25 ~~attributable loss shall be determined in accordance with Chapter~~
26 ~~17 (commencing with Section 25101) of Part 11, modified for~~
27 ~~purposes of this section as follows:~~

28 ~~(A) Loss shall be apportioned to a LAMBRA by multiplying~~
29 ~~total loss from the business by a fraction, the numerator of which~~
30 ~~is the property factor plus the payroll factor, and the denominator~~
31 ~~of which is 2.~~

32 ~~(B) “The LAMBRA” shall be substituted for “this state.”~~

33 ~~(5) A net operating loss carryover shall be a deduction only~~
34 ~~with respect to the taxpayer’s business income attributable to a~~
35 ~~LAMBRA.~~

36 ~~(6) Attributable income is that portion of the taxpayer’s~~
37 ~~California source business income that is apportioned to the~~
38 ~~LAMBRA. For that purpose, the taxpayer’s business income~~
39 ~~attributable to sources in this state first shall be determined in~~
40 ~~accordance with Chapter 17 (commencing with Section 25101)~~

1 of Part 11. That business income shall be further apportioned to
2 the LAMBRA in accordance with Article 2 (commencing with
3 Section 25120) of Chapter 17 of Part 11, modified for purposes
4 of this subdivision as follows:

5 (A) Business income shall be apportioned to a LAMBRA by
6 multiplying total California business income of the taxpayer by a
7 fraction, the numerator of which is the property factor plus the
8 payroll factor, and the denominator of which is two. For purposes
9 of this clause:

10 (i) The property factor is a fraction, the numerator of which is
11 the average value of the taxpayer's real and tangible personal
12 property owned or rented and used in the LAMBRA during the
13 taxable year, and the denominator of which is the average value
14 of all the taxpayer's real and tangible personal property owned or
15 rented and used in this state during the taxable year.

16 (ii) The payroll factor is a fraction, the numerator of which is
17 the total amount paid by the taxpayer in the LAMBRA during the
18 taxable year for compensation, and the denominator of which is
19 the total compensation paid by the taxpayer in this state during
20 the taxable year.

21 (B) If a loss carryover is allowable pursuant to this section for
22 any taxable year after the LAMBRA designation has expired, the
23 LAMBRA shall be deemed to remain in existence for purposes
24 of computing the limitation specified in paragraph (5) and
25 allowing a net operating loss deduction.

26 (7)–

27 (5) “LAMBRA expiration date” means the date the
28 LAMBRA designation expires, is no longer binding, or becomes
29 inoperative pursuant to Section 7110 of the Government Code.

30 (b) A taxpayer who qualifies as a “qualified taxpayer” under
31 one or more sections shall, for the taxable year of the net
32 operating loss and any taxable year to which that net operating
33 loss may be carried, designate on the original return filed for
34 each year the section that applies to that taxpayer with respect to
35 that net operating loss. If the taxpayer is eligible to qualify under
36 more than one section, the designation is to be made after taking
37 into account subdivision (c).

38 (c) If a taxpayer is eligible to qualify under this section and
39 either Section 17276.2, 17276.4, or 17276.6 as a “qualified
40 taxpayer,” with respect to a net operating loss in a taxable year,

1 the taxpayer shall designate which section is to apply to the
2 taxpayer.

3 (d) Notwithstanding Section 17276, the amount of the loss
4 determined under this section or Section 17276.2, 17276.4, or
5 17276.6 shall be the only net operating loss allowed to be carried
6 over from that taxable year and the designation under subdivision
7 (b) shall be included in the election under Section 17276.1.

8 (e) This section shall apply to taxable years beginning on or
9 after January 1, 1998.

10 *SEC. 13. Section 17276.6 of the Revenue and Taxation Code*
11 *is amended to read:*

12 17276.6. (a) For each taxable year beginning on or after
13 January 1, 1998, the term “qualified taxpayer” as used in Section
14 17276.1 includes a person or entity that meets both of the
15 following:

16 (1) Is engaged in a trade or business within a targeted tax area
17 designated pursuant to Chapter 12.93 (commencing with Section
18 7097) of Division 7 of Title 1 of the Government Code.

19 (2) Is engaged in those lines of business described in Codes
20 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
21 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
22 of the Standard Industrial Classification (SIC) Manual published
23 by the United States Office of Management and Budget, 1987
24 edition. In the case of any pass-through entity, the determination
25 of whether a taxpayer is a qualified taxpayer under this section
26 shall be made at the entity level.

27 (b) For purposes of subdivision (a), all of the following shall
28 apply:

29 (1) A net operating loss shall not be a net operating loss
30 carryback to any taxable year and a net operating loss for any
31 taxable year beginning on or after the date that the area in which
32 the qualified taxpayer conducts a trade or business is designated
33 as a targeted tax area shall be a net operating loss carryover to
34 each of the ~~15~~ 17 taxable years following the taxable year of loss.

35 (2) “Net operating loss” means the loss determined under
36 Section 172 of the Internal Revenue Code, as modified by
37 Section 17276.1, attributable to the qualified taxpayer’s business
38 activities within the targeted tax area (as defined in Chapter
39 12.93 (commencing with Section 7097) of Division 7 of Title 1
40 of the Government Code) prior to the targeted tax area expiration

1 date. That attributable loss shall be determined in accordance
2 with Chapter 17 (commencing with Section 25101) of Part 11,
3 modified for purposes of this section as follows:

4 (A) Loss shall be apportioned to the targeted tax area by
5 multiplying total loss from the business by a fraction, the
6 numerator of which is the property factor plus the payroll factor,
7 and the denominator of which is 2.

8 (B) “The targeted tax area” shall be substituted for “this state.”

9 (3) A net operating loss carryover shall be a deduction only
10 with respect to the qualified taxpayer’s business income
11 attributable to the targeted tax area as defined in Chapter 12.93
12 (commencing with Section 7097) of Division 7 of Title 1 of the
13 Government Code.

14 (4) Attributable income shall be that portion of the qualified
15 taxpayer’s California source business income that is apportioned
16 to the targeted tax area. For that purpose, the qualified taxpayer’s
17 business income attributable to sources in this state first shall be
18 determined in accordance with Chapter 17 (commencing with
19 Section 25101) of Part 11. That business income shall be further
20 apportioned to the targeted tax area in accordance with Article 2
21 (commencing with Section 25120) of Chapter 17 of Part 11,
22 modified for purposes of this subdivision as follows:

23 (A) Business income shall be apportioned to the targeted tax
24 area by multiplying the total business income of the taxpayer by
25 a fraction, the numerator of which is the property factor plus the
26 payroll factor, and the denominator of which is two. For purposes
27 of this clause:

28 (i) The property factor is a fraction, the numerator of which is
29 the average value of the taxpayer’s real and tangible personal
30 property owned or rented and used in the targeted tax area during
31 the taxable year, and the denominator of which is the average
32 value of all the taxpayer’s real and tangible personal property
33 owned or rented and used in this state during the taxable year.

34 (ii) The payroll factor is a fraction, the numerator of which is
35 the total amount paid by the taxpayer in the targeted tax area
36 during the taxable year for compensation, and the denominator of
37 which is the total compensation paid by the taxpayer in this state
38 during the taxable year.

39 (B) If a loss carryover is allowable pursuant to this subdivision
40 for any taxable year after the targeted tax area expiration date, the

~~targeted tax area designation shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (B) and allowing a net operating loss deduction.~~

~~(5)–~~

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

~~(b)–~~

(c) A taxpayer who qualifies as a “qualified taxpayer” under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

~~(e)–~~

(d) If a taxpayer is eligible to qualify under this section and either Section 17276.2, 17276.4, or 17276.5 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

~~(d)–~~

(e) Notwithstanding Section 17276, the amount of the loss determined under this section or Section 17276.2, 17276.4, or 17276.5 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 17276.1.

~~(e)–~~

(f) This section shall apply to taxable years beginning on or after January 1, 1998.

SEC. 14. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) There shall be allowed a credit against the “tax” (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

1 (2) Forty percent of qualified wages in the second year of
2 employment.

3 (3) Thirty percent of qualified wages in the third year of
4 employment.

5 (4) Twenty percent of qualified wages in the fourth year of
6 employment.

7 (5) Ten percent of qualified wages in the fifth year of
8 employment.

9 (b) For purposes of this section:

10 (1) “Qualified wages” means:

11 (A) (i) Except as provided in clause (ii), that portion of wages
12 paid or incurred by the taxpayer during the taxable year to
13 qualified employees that does not exceed 150 percent of the
14 minimum wage.

15 (ii) For up to 1,350 qualified employees who are employed by
16 the taxpayer in the Long Beach Enterprise Zone in aircraft
17 manufacturing activities described in Codes 3721 to 3728,
18 inclusive, and Code 3812 of the Standard Industrial
19 Classification (SIC) Manual published by the United States
20 Office of Management and Budget, 1987 edition, “qualified
21 wages” means that portion of hourly wages that does not exceed
22 202 percent of the minimum wage.

23 (B) Wages received during the 60-month period beginning
24 with the first day the employee commences employment with the
25 taxpayer. Reemployment in connection with any increase,
26 including a regularly occurring seasonal increase, in the trade or
27 business operations of the taxpayer does not constitute
28 commencement of employment for purposes of this section.

29 (C) Qualified wages do not include any wages paid or incurred
30 by the taxpayer on or after the zone expiration date. However,
31 wages paid or incurred with respect to qualified employees who
32 are employed by the taxpayer within the enterprise zone within
33 the 60-month period prior to the zone expiration date shall
34 continue to qualify for the credit under this section after the zone
35 expiration date, in accordance with all provisions of this section
36 applied as if the enterprise zone designation were still in
37 existence and binding.

38 (2) “Minimum wage” means the wage established by the
39 Industrial Welfare Commission as provided for in Chapter 1

(commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following *as documented by the enterprise zone coordinator*:

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person ~~eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act enrolled and documented in the California Job Training Automation System by an authorized WIA representative under the federal Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its successor.~~

(II) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person ~~eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) receiving benefits under the California Work Opportunity and Responsibility to Kids program provided for pursuant to Article 3.2 (commencing with Section 11200) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

(III) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older. *For purposes of this section, and “economically disadvantaged*

1 *individual” means an individual who meets the definition of that*
2 *term under the Workforce Investment Act, or its successor.*

3 (IV) Immediately preceding the qualified employee’s
4 commencement of employment with the taxpayer, was a
5 ~~dislocated worker who meets any of the following:~~ *worker. For*
6 *purposes of this section, a “dislocated worker” means an*
7 *individual who meets the definition of that term under the*
8 *Workforce Investment Act, or its successor.*

9 ~~(aa) Has been terminated or laid off or who has received a~~
10 ~~notice of termination or layoff from employment, is eligible for~~
11 ~~or has exhausted entitlement to unemployment insurance~~
12 ~~benefits, and is unlikely to return to his or her previous industry~~
13 ~~or occupation.~~

14 ~~(bb) Has been terminated or has received a notice of~~
15 ~~termination of employment as a result of any permanent closure~~
16 ~~or any substantial layoff at a plant, facility, or enterprise,~~
17 ~~including an individual who has not received written notification~~
18 ~~but whose employer has made a public announcement of the~~
19 ~~closure or layoff.~~

20 ~~(cc) Is long-term unemployed and has limited opportunities for~~
21 ~~employment or reemployment in the same or a similar~~
22 ~~occupation in the area in which the individual resides, including~~
23 ~~an individual 55 years of age or older who may have substantial~~
24 ~~barriers to employment by reason of age.~~

25 ~~(dd) Was self-employed (including farmers and ranchers) and~~
26 ~~is unemployed as a result of general economic conditions in the~~
27 ~~community in which he or she resides or because of natural~~
28 ~~disasters.~~

29 ~~(ee) Was a civilian employee of the Department of Defense~~
30 ~~employed at a military installation being closed or realigned~~
31 ~~under the Defense Base Closure and Realignment Act of 1990.~~

32 ~~(ff) Was an active member of the armed forces or National~~
33 ~~Guard as of September 30, 1990, and was either involuntarily~~
34 ~~separated or separated pursuant to a special benefits program.~~

35 ~~(gg) Is a seasonal or migrant worker who experiences chronic~~
36 ~~seasonal unemployment and underemployment in the agriculture~~
37 ~~industry, aggravated by continual advancements in technology~~
38 ~~and mechanization.~~

~~(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.~~

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is plan.

(VI) Is a service-connected disabled veteran, veteran of the Vietnam era, ~~or veteran who is recently separated from military~~ an individual who served in the active military, naval, or air service, and who was discharged or released from that service under conditions other than dishonorable, or any veteran who was discharged or released in the last 48 months from active military, naval, or air service.

~~(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender.~~

(VII) Has a prior felony conviction. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

~~(VII)~~
(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person ~~eligible for or a recipient of receiving~~ any of the following benefits:

(aa) Federal Supplemental Security Income benefits.

~~(bb) Aid to Families with Dependent Children~~ Temporary Assistance for Needy Families.

(cc) Food stamps.

(dd) State and local general assistance.

~~(VIII)~~
(IX) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

~~(IX)~~
(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code).

~~(X) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.~~

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal ~~Job Training Partnership Act or the Greater Avenues for Independence Act of 1985~~ *Workforce Investment Act*, or its successor, or the *California Work Opportunity and Responsibility to Kids Act*, or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the *enterprise zone coordinator designated by the local jurisdiction in which the employee is employed or, if serving that enterprise zone, the Employment Development Department*, as permitted by federal law, the local county or city ~~Job Training Partnership Act~~ *Workforce Investment Act* (or its successor) administrative entity, the local county ~~GAIN~~ *CalWORKs* office or social services agency, or ~~the local government administering the enterprise zone~~ *its successors*, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of

1 the Government Code. *Applications for this certification shall be*
2 *submitted to the certifying agency within 24 months of the*
3 *commencement date of employment with the taxpayer.*

4 (2) Retain a copy of the certification and provide it upon
5 request to the Franchise Tax Board.

6 (d) (1) For purposes of this section:

7 (A) All employees of all corporations which are members of
8 the same controlled group of corporations shall be treated as
9 employed by a single taxpayer.

10 (B) The credit, if any, allowable by this section to each
11 member shall be determined by reference to its proportionate
12 share of the expense of the qualified wages giving rise to the
13 credit, and shall be allocated in that manner.

14 (C) For purposes of this subdivision, “controlled group of
15 corporations” means “controlled group of corporations” as
16 defined in Section 1563(a) of the Internal Revenue Code, except
17 that:

18 (i) “More than 50 percent” shall be substituted for “at least 80
19 percent” each place it appears in Section 1563(a)(1) of the
20 Internal Revenue Code.

21 (ii) The determination shall be made without regard to
22 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
23 Revenue Code.

24 (2) If an employer acquires the major portion of a trade or
25 business of another employer (hereinafter in this paragraph
26 referred to as the “predecessor”) or the major portion of a
27 separate unit of a trade or business of a predecessor, then, for
28 purposes of applying this section (other than subdivision (e)) for
29 any calendar year ending after that acquisition, the employment
30 relationship between a qualified employee and an employer shall
31 not be treated as terminated if the employee continues to be
32 employed in that trade or business.

33 (e) (1) (A) If the employment, other than seasonal
34 employment, of any qualified employee with respect to whom
35 qualified wages are taken into account under subdivision (a) is
36 terminated by the taxpayer at any time during the first 270 days
37 of that employment, whether or not consecutive, or before the
38 close of the 270th calendar day after the day in which that
39 employee completes 90 days of employment with the taxpayer,
40 the tax imposed by this part for the taxable year in which that

1 employment is terminated shall be increased by an amount equal
2 to the credit allowed under subdivision (a) for that taxable year
3 and all prior taxable years attributable to qualified wages paid or
4 incurred with respect to that employee.

5 (B) If the seasonal employment of any qualified employee,
6 with respect to whom qualified wages are taken into account
7 under subdivision (a) is not continued by the taxpayer for a
8 period of 270 days of employment during the 60-month period
9 beginning with the day the qualified employee commences
10 seasonal employment with the taxpayer, the tax imposed by this
11 part, for the taxable year that includes the 60th month following
12 the month in which the qualified employee commences seasonal
13 employment with the taxpayer, shall be increased by an amount
14 equal to the credit allowed under subdivision (a) for that taxable
15 year and all prior taxable years attributable to qualified wages
16 paid or incurred with respect to that qualified employee.

17 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
18 any of the following:

19 (i) A termination of employment of a qualified employee who
20 voluntarily leaves the employment of the taxpayer.

21 (ii) A termination of employment of a qualified employee
22 who, before the close of the period referred to in subparagraph
23 (A) of paragraph (1), becomes disabled and unable to perform the
24 services of that employment, unless that disability is removed
25 before the close of that period and the taxpayer fails to offer
26 reemployment to that employee.

27 (iii) A termination of employment of a qualified employee, if
28 it is determined that the termination was due to the misconduct
29 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
30 of the California Code of Regulations) of that employee.

31 (iv) A termination of employment of a qualified employee due
32 to a substantial reduction in the trade or business operations of
33 the taxpayer.

34 (v) A termination of employment of a qualified employee, if
35 that employee is replaced by other qualified employees so as to
36 create a net increase in both the number of employees and the
37 hours of employment.

38 (B) Subparagraph (B) of paragraph (1) shall not apply to any
39 of the following:

1 (i) A failure to continue the seasonal employment of a
2 qualified employee who voluntarily fails to return to the seasonal
3 employment of the taxpayer.

4 (ii) A failure to continue the seasonal employment of a
5 qualified employee who, before the close of the period referred to
6 in subparagraph (B) of paragraph (1), becomes disabled and
7 unable to perform the services of that seasonal employment,
8 unless that disability is removed before the close of that period
9 and the taxpayer fails to offer seasonal employment to that
10 qualified employee.

11 (iii) A failure to continue the seasonal employment of a
12 qualified employee, if it is determined that the failure to continue
13 the seasonal employment was due to the misconduct (as defined
14 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
15 California Code of Regulations) of that qualified employee.

16 (iv) A failure to continue seasonal employment of a qualified
17 employee due to a substantial reduction in the regular seasonal
18 trade or business operations of the taxpayer.

19 (v) A failure to continue the seasonal employment of a
20 qualified employee, if that qualified employee is replaced by
21 other qualified employees so as to create a net increase in both
22 the number of seasonal employees and the hours of seasonal
23 employment.

24 (C) For purposes of paragraph (1), the employment
25 relationship between the taxpayer and a qualified employee shall
26 not be treated as terminated by either of the following:

27 (i) By a transaction to which Section 381(a) of the Internal
28 Revenue Code applies, if the qualified employee continues to be
29 employed by the acquiring corporation.

30 (ii) By reason of a mere change in the form of conducting the
31 trade or business of the taxpayer, if the qualified employee
32 continues to be employed in that trade or business and the
33 taxpayer retains a substantial interest in that trade or business.

34 (3) Any increase in tax under paragraph (1) shall not be treated
35 as tax imposed by this part for purposes of determining the
36 amount of any credit allowable under this part.

37 (f) Rules similar to the rules provided in Section 46(e) and (h)
38 of the Internal Revenue Code shall apply to both of the
39 following:

1 (1) An organization to which Section 593 of the Internal
2 Revenue Code applies.

3 (2) A regulated investment company or a real estate
4 investment trust subject to taxation under this part.

5 (g) For purposes of this section, “enterprise zone” means an
6 area designated as an enterprise zone pursuant to Chapter 12.8
7 (commencing with Section 7070) of Division 7 of Title 1 of the
8 Government Code.

9 (h) The credit allowable under this section shall be reduced by
10 the credit allowed under Sections 23623.5, 23625, and 23646
11 claimed for the same employee. The credit shall also be reduced
12 by the federal credit allowed under Section 51 of the Internal
13 Revenue Code.

14 In addition, any deduction otherwise allowed under this part
15 for the wages or salaries paid or incurred by the taxpayer upon
16 which the credit is based shall be reduced by the amount of the
17 credit, prior to any reduction required by subdivision (i) or (j).

18 (i) In the case where the credit otherwise allowed under this
19 section exceeds the “tax” for the taxable year, that portion of the
20 credit that exceeds the “tax” may be carried over and added to
21 the credit, if any, in succeeding taxable years, until the credit is
22 exhausted. The credit shall be applied first to the earliest taxable
23 years possible.

24 (j) (1) The amount of the credit otherwise allowed under this
25 section and Section 23612.2, including any credit carryover from
26 prior years, that may reduce the “tax” for the taxable year shall
27 not exceed the amount of tax which would be imposed on the
28 taxpayer’s business income attributable to the enterprise zone
29 determined as if that attributable income represented all of the
30 income of the taxpayer subject to tax under this part.

31 (2) Attributable income shall be that portion of the taxpayer’s
32 California source business income that is apportioned to the
33 enterprise zone. For that purpose, the taxpayer’s business
34 attributable to sources in this state first shall be determined in
35 accordance with Chapter 17 (commencing with Section 25101).
36 That business income shall be further apportioned to the
37 enterprise zone in accordance with Article 2 (commencing with
38 Section 25120) of Chapter 17, modified for purposes of this
39 section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

SEC. 15. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the "tax" (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the Manufacturing Enhancement Area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

1 (5) Ten percent of the qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified disadvantaged
7 individuals that does not exceed 150 percent of the minimum
8 wage.

9 (B) The total amount of qualified wages which may be taken
10 into account for purposes of claiming the credit allowed under
11 this section shall not exceed two million dollars (\$2,000,000) per
12 taxable year.

13 (C) Wages received during the 60-month period beginning
14 with the first day the qualified disadvantaged individual
15 commences employment with the qualified taxpayer.
16 Reemployment in connection with any increase, including a
17 regularly occurring seasonal increase, in the trade or business
18 operations of the qualified taxpayer does not constitute
19 commencement of employment for purposes of this section.

20 (D) Qualified wages do not include any wages paid or incurred
21 by the qualified taxpayer on or after the Manufacturing
22 Enhancement Area expiration date. However, wages paid or
23 incurred with respect to qualified employees who are employed
24 by the qualified taxpayer within the Manufacturing Enhancement
25 Area within the 60-month period prior to the Manufacturing
26 Enhancement Area expiration date shall continue to qualify for
27 the credit under this section after the Manufacturing
28 Enhancement Area expiration date, in accordance with all
29 provisions of this section applied as if the Manufacturing
30 Enhancement Area designation were still in existence and
31 binding.

32 (2) “Minimum wage” means the wage established by the
33 Industrial Welfare Commission as provided for in Chapter 1
34 (commencing with Section 1171) of Part 4 of Division 2 of the
35 Labor Code.

36 (3) “Manufacturing Enhancement Area” means an area
37 designated pursuant to Section 7073.8 of the Government Code
38 according to the procedures of Chapter 12.8 (commencing with
39 Section 7070) of Division 7 of Title 1 of the Government Code.

1 (4) “Manufacturing Enhancement Area expiration date” means
2 the date the Manufacturing Enhancement Area designation
3 expires, is no longer binding, or becomes inoperative.

4 (5) “Qualified disadvantaged individual” means an individual
5 who satisfies all of the following requirements:

6 (A) (i) At least 90 percent of whose services for the qualified
7 taxpayer during the taxable year are directly related to the
8 conduct of the qualified taxpayer’s trade or business located in a
9 Manufacturing Enhancement Area.

10 (ii) Who performs at least 50 percent of his or her services for
11 the qualified taxpayer during the taxable year in the
12 Manufacturing Enhancement Area.

13 (B) Who is hired by the qualified taxpayer after the
14 designation of the area as a Manufacturing Enhancement Area in
15 which the individual’s services were primarily performed.

16 (C) Who is any of the following immediately preceding the
17 individual’s commencement of employment with the qualified
18 taxpayer *as documented by the Manufacturing Enhancement*
19 *Area coordinator*:

20 (i) ~~An individual who has been determined eligible for~~
21 ~~services under the federal Job Training Partnership Act (29~~
22 ~~U.S.C. Sec. 1501 et seq.) enrolled and documented in the~~
23 ~~California Job Training Automation System by an authorized~~
24 ~~WIA representative under the federal Workforce Investment Act~~
25 ~~(29 U.S.C. Sec. 720 et seq.), or its successor.~~

26 (ii) ~~Any voluntary or mandatory registrant under the Greater~~
27 ~~Avenues for Independence Act of 1985, or its successor, as~~
28 ~~provided pursuant to Article 3.2 (commencing with Section~~
29 ~~11320) An individual receiving benefits under the California~~
30 ~~Work Opportunity and Responsibility to Kids program provided~~
31 ~~for pursuant to Article 3.2 (commencing with Section 11200) of~~
32 ~~Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions~~
33 ~~Code, or its successor.~~

34 (iii) Any individual who has been certified eligible by the
35 Employment Development Department under the federal
36 Targeted Jobs Tax Credit Program, or its successor, whether or
37 not this program is in effect.

38 (6) “Qualified taxpayer” means any corporation engaged in a
39 trade or business within a Manufacturing Enhancement Area

1 designated pursuant to Section 7073.8 of the Government Code
2 and that meets all of the following requirements:

3 (A) Is engaged in those lines of business described in Codes
4 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
5 inclusive, of the Standard Industrial Classification (SIC) Manual
6 published by the United States Office of Management and
7 Budget, 1987 edition.

8 (B) At least 50 percent of the qualified taxpayer's workforce
9 hired after the designation of the Manufacturing Enhancement
10 Area is composed of individuals who, at the time of hire, are
11 residents of the county in which the Manufacturing Enhancement
12 Area is located.

13 (C) Of this percentage of local hires, at least 30 percent shall
14 be qualified disadvantaged individuals.

15 (7) "Seasonal employment" means employment by a qualified
16 taxpayer that has regular and predictable substantial reductions in
17 trade or business operations.

18 (c) (1) For purposes of this section, all of the following apply:

19 (A) All employees of all corporations that are members of the
20 same controlled group of corporations shall be treated as
21 employed by a single qualified taxpayer.

22 (B) The credit (if any) allowable by this section with respect to
23 each member shall be determined by reference to its
24 proportionate share of the expenses of the qualified wages giving
25 rise to the credit and shall be allocated in that manner.

26 (C) Principles that apply in the case of controlled groups of
27 corporations, as specified in subdivision (d) of Section 23622.7,
28 shall apply with respect to determining employment.

29 (2) If a qualified taxpayer acquires the major portion of a trade
30 or business of another employer (hereinafter in this paragraph
31 referred to as the "predecessor") or the major portion of a
32 separate unit of a trade or business of a predecessor, then, for
33 purposes of applying this section (other than subdivision (d)) for
34 any calendar year ending after that acquisition, the employment
35 relationship between a qualified disadvantaged individual and a
36 qualified taxpayer shall not be treated as terminated if the
37 qualified disadvantaged individual continues to be employed in
38 that trade or business.

39 (d) (1) (A) If the employment, other than seasonal
40 employment, of any qualified disadvantaged individual, with

1 respect to whom qualified wages are taken into account under
2 subdivision (b) is terminated by the qualified taxpayer at any
3 time during the first 270 days of that employment (whether or not
4 consecutive) or before the close of the 270th calendar day after
5 the day in which that qualified disadvantaged individual
6 completes 90 days of employment with the qualified taxpayer,
7 the tax imposed by this part for the taxable year in which that
8 employment is terminated shall be increased by an amount equal
9 to the credit allowed under subdivision (a) for that taxable year
10 and all prior taxable years attributable to qualified wages paid or
11 incurred with respect to that qualified disadvantaged individual.

12 (B) If the seasonal employment of any qualified disadvantaged
13 individual, with respect to whom qualified wages are taken into
14 account under subdivision (a) is not continued by the qualified
15 taxpayer for a period of 270 days of employment during the
16 60-month period beginning with the day the qualified
17 disadvantaged individual commences seasonal employment with
18 the qualified taxpayer, the tax imposed by this part, for the
19 income year that includes the 60th month following the month in
20 which the qualified disadvantaged individual commences
21 seasonal employment with the qualified taxpayer, shall be
22 increased by an amount equal to the credit allowed under
23 subdivision (a) for that taxable year and all prior taxable years
24 attributable to qualified wages paid or incurred with respect to
25 that qualified disadvantaged individual.

26 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
27 any of the following:

28 (i) A termination of employment of a qualified disadvantaged
29 individual who voluntarily leaves the employment of the
30 qualified taxpayer.

31 (ii) A termination of employment of a qualified disadvantaged
32 individual who, before the close of the period referred to in
33 subparagraph (A) of paragraph (1), becomes disabled to perform
34 the services of that employment, unless that disability is removed
35 before the close of that period and the qualified taxpayer fails to
36 offer reemployment to that individual.

37 (iii) A termination of employment of a qualified disadvantaged
38 individual, if it is determined that the termination was due to the
39 misconduct (as defined in Sections 1256-30 to 1256-43,

1 inclusive, of Title 22 of the California Code of Regulations) of
2 that individual.

3 (iv) A termination of employment of a qualified disadvantaged
4 individual due to a substantial reduction in the trade or business
5 operations of the qualified taxpayer.

6 (v) A termination of employment of a qualified disadvantaged
7 individual, if that individual is replaced by other qualified
8 disadvantaged individuals so as to create a net increase in both
9 the number of employees and the hours of employment.

10 (B) Subparagraph (B) of paragraph (1) shall not apply to any
11 of the following:

12 (i) A failure to continue the seasonal employment of a
13 qualified disadvantaged individual who voluntarily fails to return
14 to the seasonal employment of the qualified taxpayer.

15 (ii) A failure to continue the seasonal employment of a
16 qualified disadvantaged individual who, before the close of the
17 period referred to in subparagraph (B) of paragraph (1), becomes
18 disabled and unable to perform the services of that seasonal
19 employment, unless that disability is removed before the close of
20 that period and the qualified taxpayer fails to offer seasonal
21 employment to that qualified disadvantaged individual.

22 (iii) A failure to continue the seasonal employment of a
23 qualified disadvantaged individual, if it is determined that the
24 failure to continue the seasonal employment was due to the
25 misconduct (as defined in Sections 1256-30 to 1256-43,
26 inclusive, of Title 22 of the California Code of Regulations) of
27 that qualified disadvantaged individual.

28 (iv) A failure to continue seasonal employment of a qualified
29 disadvantaged individual due to a substantial reduction in the
30 regular seasonal trade or business operations of the qualified
31 taxpayer.

32 (v) A failure to continue the seasonal employment of a
33 qualified disadvantaged individual, if that qualified
34 disadvantaged individual is replaced by other qualified
35 disadvantaged individuals so as to create a net increase in both
36 the number of seasonal employees and the hours of seasonal
37 employment.

38 (C) For purposes of paragraph (1), the employment
39 relationship between the qualified taxpayer and a qualified

1 disadvantaged individual shall not be treated as terminated by
2 either of the following:

3 (i) By a transaction to which Section 381(a) of the Internal
4 Revenue Code applies, if the qualified disadvantaged individual
5 continues to be employed by the acquiring corporation.

6 (ii) By reason of a mere change in the form of conducting the
7 trade or business of the qualified taxpayer, if the qualified
8 disadvantaged individual continues to be employed in that trade
9 or business and the qualified taxpayer retains a substantial
10 interest in that trade or business.

11 (3) Any increase in tax under paragraph (1) shall not be treated
12 as tax imposed by this part for purposes of determining the
13 amount of any credit allowable under this part.

14 (e) The credit shall be reduced by the credit allowed under
15 Section 23621. The credit shall also be reduced by the federal
16 credit allowed under Section 51 of the Internal Revenue Code.

17 In addition, any deduction otherwise allowed under this part
18 for the wages or salaries paid or incurred by the qualified
19 taxpayer upon which the credit is based shall be reduced by the
20 amount of the credit, prior to any reduction required by
21 subdivision (f) or (g).

22 (f) In the case where the credit otherwise allowed under this
23 section exceeds the “tax” for the taxable year, that portion of the
24 credit that exceeds the “tax” may be carried over and added to
25 the credit, if any, in succeeding years, until the credit is
26 exhausted. The credit shall be applied first to the earliest taxable
27 years possible.

28 (g) (1) The amount of credit otherwise allowed under this
29 section, including prior year credit carryovers, that may reduce
30 the “tax” for the taxable year shall not exceed the amount of tax
31 that would be imposed on the qualified taxpayer’s business
32 income attributed to a Manufacturing Enhancement Area
33 determined as if that attributed income represented all of the net
34 income of the qualified taxpayer subject to tax under this part.

35 (2) Attributable income is that portion of the taxpayer’s
36 California source business income that is apportioned to the
37 Manufacturing Enhancement Area. For that purpose, the
38 taxpayer’s business income attributable to sources in this state
39 first shall be determined in accordance with Chapter 17
40 (commencing with Section 25101). That business income shall

1 be further apportioned to the Manufacturing Enhancement Area
2 in accordance with Article 2 (commencing with Section 25120)
3 of Chapter 17, modified for purposes of this section in
4 accordance with paragraph (3).

5 (3) Income shall be apportioned to a Manufacturing
6 Enhancement Area by multiplying the total California business
7 income of the taxpayer by a fraction, the numerator of which is
8 the property factor plus the payroll factor, and the denominator of
9 which is two. For the purposes of this paragraph:

10 (A) The property factor is a fraction, the numerator of which is
11 the average value of the taxpayer's real and tangible personal
12 property owned or rented and used in the Manufacturing
13 Enhancement Area during the taxable year, and the denominator
14 of which is the average value of all the taxpayer's real and
15 tangible personal property owned or rented and used in this state
16 during the taxable year.

17 (B) The payroll factor is a fraction, the numerator of which is
18 the total amount paid by the taxpayer in the Manufacturing
19 Enhancement Area during the taxable year for compensation, and
20 the denominator of which is the total compensation paid by the
21 taxpayer in this state during the taxable year.

22 (4) The portion of any credit remaining, if any, after
23 application of this subdivision, shall be carried over to
24 succeeding taxable years, as if it were an amount exceeding the
25 "tax" for the taxable year, as provided in subdivision (g).

26 (h) If the taxpayer is allowed a credit pursuant to this section
27 for qualified wages paid or incurred, only one credit shall be
28 allowed to the taxpayer under this part with respect to any wage
29 consisting in whole or in part of those qualified wages.

30 (i) *For vouchers for hiring credits issued after January 1,*
31 *2007, the qualified taxpayer shall do both of the following:*

32 (1) *Obtain from the Employment Development Department, as*
33 *permitted by federal law, the local county or city Workforce*
34 *Investment Act (or its successor) administrative entity, the local*
35 *county CalWORKs office or social services agency, or the local*
36 *government administering the Manufacturing Enhancement*
37 *Area, a certification that provides that a qualified disadvantaged*
38 *individual meets the eligibility requirements specified in*
39 *paragraph (5) of subdivision (b). The Employment Development*
40 *Department may provide preliminary screening and referral to a*

1 certifying agency. The Employment Development Department
2 shall develop a form for this purpose. Applications for this
3 certification shall be submitted to the certifying agency within 24
4 months of the commencement date of employment with the
5 taxpayer.

6 (2) Retain a copy of the certification and provide it upon
7 request to the Franchise Tax Board.

8 SEC. 16. Section 23634 of the Revenue and Taxation Code is
9 amended to read:

10 23634. (a) For each taxable year beginning on or after
11 January 1, 1998, there shall be allowed a credit against the “tax”
12 (as defined by Section 23036) to a qualified taxpayer who
13 employs a qualified employee in a targeted tax area during the
14 taxable year. The credit shall be equal to the sum of each of the
15 following:

16 (1) Fifty percent of qualified wages in the first year of
17 employment.

18 (2) Forty percent of qualified wages in the second year of
19 employment.

20 (3) Thirty percent of qualified wages in the third year of
21 employment.

22 (4) Twenty percent of qualified wages in the fourth year of
23 employment.

24 (5) Ten percent of qualified wages in the fifth year of
25 employment.

26 (b) For purposes of this section:

27 (1) “Qualified wages” means:

28 (A) That portion of wages paid or incurred by the qualified
29 taxpayer during the taxable year to qualified employees that does
30 not exceed 150 percent of the minimum wage.

31 (B) Wages received during the 60-month period beginning
32 with the first day the employee commences employment with the
33 qualified taxpayer. Reemployment in connection with any
34 increase, including a regularly occurring seasonal increase, in the
35 trade or business operations of the qualified taxpayer does not
36 constitute commencement of employment for purposes of this
37 section.

38 (C) Qualified wages do not include any wages paid or incurred
39 by the qualified taxpayer on or after the targeted tax area
40 expiration date. However, wages paid or incurred with respect to

qualified employees who are employed by the qualified taxpayer within the targeted tax area within the 60-month period prior to the targeted tax area expiration date shall continue to qualify for the credit under this section after the targeted tax area expiration date, in accordance with all provisions of this section applied as if the targeted tax area designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Targeted tax area expiration date” means the date the targeted tax area designation expires, is revoked, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of his or her services for the qualified taxpayer during the taxable year are directly related to the conduct of the qualified taxpayer’s trade or business located in a targeted tax area.

(ii) Performs at least 50 percent of his or her services for the qualified taxpayer during the taxable year in a targeted tax area.

(iii) Is hired by the qualified taxpayer after the date of original designation of the area in which services were performed as a targeted tax area.

(iv) Is any of the following *as documented by the targeted tax area coordinator*:

(I) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a ~~person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act enrolled and documented in the California Job Training Automation System by an authorized WIA representative under the Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its successor.~~

(II) Immediately preceding the qualified employee’s commencement of employment with the qualified taxpayer, was a ~~person eligible to be a voluntary or mandatory registrant under~~

~~the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) receiving benefits under the California Work Opportunity and Responsibility to Kids program provided for pursuant to Article 3.2 (commencing with Section 11200) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

(III) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was an economically disadvantaged individual 14 years of age or older. *For purposes of this section, "economically disadvantaged individual" means an individual who meets the definition of that term in the Workforce Investment Act, or its successor.*

(IV) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a dislocated worker who meets any of the following: worker. *For purposes of this section, "dislocated worker" means an individual who meets the definition of that term in the Workforce Investment Act, or its successor.*

~~(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.~~

~~(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.~~

~~(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.~~

~~(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.~~

1 ~~(ee) Was a civilian employee of the Department of Defense~~
2 ~~employed at a military installation being closed or realigned~~
3 ~~under the Defense Base Closure and Realignment Act of 1990.~~

4 ~~(ff) Was an active member of the armed forces or National~~
5 ~~Guard as of September 30, 1990, and was either involuntarily~~
6 ~~separated or separated pursuant to a special benefits program.~~

7 ~~(gg) Is a seasonal or migrant worker who experiences chronic~~
8 ~~seasonal unemployment and underemployment in the agriculture~~
9 ~~industry, aggravated by continual advancements in technology~~
10 ~~and mechanization.~~

11 ~~(hh) Has been terminated or laid off, or has received a notice~~
12 ~~of termination or layoff, as a consequence of compliance with the~~
13 ~~Clean Air Act.~~

14 (V) Immediately preceding the qualified employee's
15 commencement of employment with the qualified taxpayer, was
16 a disabled individual who is eligible for or enrolled in, or has
17 completed a state rehabilitation plan or is a plan.

18 (VI) *Is a service-connected disabled veteran, veteran of the*
19 *Vietnam era, or veteran who is recently separated from military*
20 *an individual who served in the active military, naval, or air*
21 *service, and who was discharged or released from that service*
22 *under conditions other than dishonorable, or any veteran who*
23 *was discharged or released in the last 48 months from active*
24 *military, naval, or air service.*

25 ~~(VI) Immediately preceding the qualified employee's~~
26 ~~commencement of employment with the qualified taxpayer, was~~
27 ~~an ex-offender.~~

28 (VII) *Has a prior felony conviction.* An individual shall be
29 treated as convicted if he or she was placed on probation by a
30 state court without a finding of guilt.

31 ~~(VII)~~

32 (VIII) Immediately preceding the qualified employee's
33 commencement of employment with the qualified taxpayer, was
34 a person eligible for or a recipient of any of receiving the
35 following benefits:

36 (aa) Federal Supplemental Security Income benefits.

37 ~~(bb) Aid to Families with Dependent Children Temporary~~
38 ~~Assistance for Needy Families.~~

39 (cc) Food stamps.

40 (dd) State and local general assistance.

1 ~~(VIII)~~—

2 (IX) Immediately preceding the qualified employee's
3 commencement of employment with the qualified taxpayer, was
4 a member of a federally recognized Indian tribe, band, or other
5 group of Native American descent.

6 ~~(IX)~~—

7 (X) Immediately preceding the qualified employee's
8 commencement of employment with the qualified taxpayer, was
9 a resident of a targeted tax area.

10 ~~(X)~~—

11 (XI) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a member
13 of a targeted group, as defined in Section 51(d) of the Internal
14 Revenue Code, or its successor.

15 (B) Priority for employment shall be provided to an individual
16 who is enrolled in a qualified program under the federal ~~Job~~
17 ~~Training Partnership Act or the Greater Avenues for~~
18 ~~Independence Act of 1985~~ *Workforce Investment Act, or its*
19 *successor, or the California Work Opportunity and*
20 *Responsibility to Kids Act* or who is eligible as a member of a
21 targeted group under the Work Opportunity Tax Credit (Section
22 51 of the Internal Revenue Code), or its successor.

23 (5) (A) "Qualified taxpayer" means a person or entity that
24 meets both of the following:

25 (i) Is engaged in a trade or business within a targeted tax area
26 designated pursuant to Chapter 12.93 (commencing with Section
27 7097) of Division 7 of Title 1 of the Government Code.

28 (ii) Is engaged in those lines of business described in Codes
29 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
30 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
31 of the Standard Industrial Classification (SIC) Manual published
32 by the United States Office of Management and Budget, 1987
33 edition.

34 (B) In the case of any pass-through entity, the determination of
35 whether a taxpayer is a qualified taxpayer under this section shall
36 be made at the entity level and any credit under this section or
37 Section 17053.34 shall be allowed to the pass-through entity and
38 passed through to the partners or shareholders in accordance with
39 applicable provisions of this part or Part 10 (commencing with
40 Section 17001). For purposes of this subparagraph, the term

1 “pass-through entity” means any partnership or—S “S”
2 corporation.

3 (6) “Seasonal employment” means employment by a qualified
4 taxpayer that has regular and predictable substantial reductions in
5 trade or business operations.

6 (c) If the qualified taxpayer is allowed a credit for qualified
7 wages pursuant to this section, only one credit shall be allowed to
8 the taxpayer under this part with respect to those qualified wages.

9 (d) The qualified taxpayer shall do both of the following:

10 (1) Obtain from—~~either the Employment Development~~
11 ~~Department, as permitted by federal law, or the local county or~~
12 ~~city Job Training Partnership Workforce Investment Act (or its~~
13 ~~successor) administrative entity or, the local county—GAIN~~
14 ~~CalWORKs office or social services agency, as appropriate or the~~
15 ~~local government administering the targeted tax area, a~~
16 certification that provides that a qualified employee meets the
17 eligibility requirements specified in clause (iv) of subparagraph
18 (A) of paragraph (4) of subdivision (b). The Employment
19 Development Department may provide preliminary screening
20 and referral to a certifying agency. The Employment
21 Development Department shall develop a form for this purpose.
22 *Applications for this certification shall be submitted to the*
23 *certifying agency within 24 months of the commencement date of*
24 *employment with the taxpayer.*

25 (2) Retain a copy of the certification and provide it upon
26 request to the Franchise Tax Board.

27 (e) (1) For purposes of this section:

28 (A) All employees of all corporations that are members of the
29 same controlled group of corporations shall be treated as
30 employed by a single taxpayer.

31 (B) The credit, if any, allowable by this section to each
32 member shall be determined by reference to its proportionate
33 share of the expense of the qualified wages giving rise to the
34 credit, and shall be allocated in that manner.

35 (C) For purposes of this subdivision, “controlled group of
36 corporations” means “controlled group of corporations” as
37 defined in Section 1563(a) of the Internal Revenue Code, except
38 that:

1 (i) “More than 50 percent” shall be substituted for “at least 80
2 percent” each place it appears in Section 1563(a)(1) of the
3 Internal Revenue Code.

4 (ii) The determination shall be made without regard to
5 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
6 Revenue Code.

7 (2) If an employer acquires the major portion of a trade or
8 business of another employer (hereinafter in this paragraph
9 referred to as the “predecessor”) or the major portion of a
10 separate unit of a trade or business of a predecessor, then, for
11 purposes of applying this section (other than subdivision (f)) for
12 any calendar year ending after that acquisition, the employment
13 relationship between a qualified employee and an employer shall
14 not be treated as terminated if the employee continues to be
15 employed in that trade or business.

16 (f) (1) (A) If the employment, other than seasonal
17 employment, of any qualified employee with respect to whom
18 qualified wages are taken into account under subdivision (a) is
19 terminated by the qualified taxpayer at any time during the first
20 270 days of that employment (whether or not consecutive) or
21 before the close of the 270th calendar day after the day in which
22 that employee completes 90 days of employment with the
23 qualified taxpayer, the tax imposed by this part for the taxable
24 year in which that employment is terminated shall be increased
25 by an amount equal to the credit allowed under subdivision (a)
26 for that taxable year and all prior taxable years attributable to
27 qualified wages paid or incurred with respect to that employee.

28 (B) If the seasonal employment of any qualified employee,
29 with respect to whom qualified wages are taken into account
30 under subdivision (a) is not continued by the qualified taxpayer
31 for a period of 270 days of employment during the 60-month
32 period beginning with the day the qualified employee
33 commences seasonal employment with the qualified taxpayer,
34 the tax imposed by this part, for the taxable year that includes the
35 60th month following the month in which the qualified employee
36 commences seasonal employment with the qualified taxpayer,
37 shall be increased by an amount equal to the credit allowed under
38 subdivision (a) for that taxable year and all prior taxable years
39 attributable to qualified wages paid or incurred with respect to
40 that qualified employee.

1 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
2 any of the following:

3 (i) A termination of employment of a qualified employee who
4 voluntarily leaves the employment of the qualified taxpayer.

5 (ii) A termination of employment of a qualified employee
6 who, before the close of the period referred to in subparagraph
7 (A) of paragraph (1), becomes disabled and unable to perform the
8 services of that employment, unless that disability is removed
9 before the close of that period and the qualified taxpayer fails to
10 offer reemployment to that employee.

11 (iii) A termination of employment of a qualified employee, if
12 it is determined that the termination was due to the misconduct
13 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
14 of the California Code of Regulations) of that employee.

15 (iv) A termination of employment of a qualified employee due
16 to a substantial reduction in the trade or business operations of
17 the taxpayer.

18 (v) A termination of employment of a qualified employee, if
19 that employee is replaced by other qualified employees so as to
20 create a net increase in both the number of employees and the
21 hours of employment.

22 (B) Subparagraph (B) of paragraph (1) shall not apply to any
23 of the following:

24 (i) A failure to continue the seasonal employment of a
25 qualified employee who voluntarily fails to return to the seasonal
26 employment of the qualified taxpayer.

27 (ii) A failure to continue the seasonal employment of a
28 qualified employee who, before the close of the period referred to
29 in subparagraph (B) of paragraph (1), becomes disabled and
30 unable to perform the services of that seasonal employment,
31 unless that disability is removed before the close of that period
32 and the qualified taxpayer fails to offer seasonal employment to
33 that qualified employee.

34 (iii) A failure to continue the seasonal employment of a
35 qualified employee, if it is determined that the failure to continue
36 the seasonal employment was due to the misconduct (as defined
37 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
38 California Code of Regulations) of that qualified employee.

1 (iv) A failure to continue seasonal employment of a qualified
2 employee due to a substantial reduction in the regular seasonal
3 trade or business operations of the qualified taxpayer.

4 (v) A failure to continue the seasonal employment of a
5 qualified employee, if that qualified employee is replaced by
6 other qualified employees so as to create a net increase in both
7 the number of seasonal employees and the hours of seasonal
8 employment.

9 (C) For purposes of paragraph (1), the employment
10 relationship between the qualified taxpayer and a qualified
11 employee shall not be treated as terminated by either of the
12 following:

13 (i) By a transaction to which Section 381(a) of the Internal
14 Revenue Code applies, if the qualified employee continues to be
15 employed by the acquiring corporation.

16 (ii) By reason of a mere change in the form of conducting the
17 trade or business of the qualified taxpayer, if the qualified
18 employee continues to be employed in that trade or business and
19 the qualified taxpayer retains a substantial interest in that trade or
20 business.

21 (3) Any increase in tax under paragraph (1) shall not be treated
22 as tax imposed by this part for purposes of determining the
23 amount of any credit allowable under this part.

24 (g) Rules similar to the rules provided in Sections 46(e) and
25 (h) of the Internal Revenue Code shall apply to both of the
26 following:

27 (1) An organization to which Section 593 of the Internal
28 Revenue Code applies.

29 (2) A regulated investment company or a real estate
30 investment trust subject to taxation under this part.

31 (h) For purposes of this section, “targeted tax area” means an
32 area designated pursuant to Chapter 12.93 (commencing with
33 Section 7097) of Division 7 of Title 1 of the Government Code.

34 (i) In the case where the credit otherwise allowed under this
35 section exceeds the “tax” for the taxable year, that portion of the
36 credit that exceeds the “tax” may be carried over and added to
37 the credit, if any, in succeeding taxable years, until the credit is
38 exhausted. The credit shall be applied first to the earliest taxable
39 years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23633, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the qualified taxpayer’s business income attributable to the targeted tax area determined as if that attributable income represented all of the income of the qualified taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area designation has expired or been revoked, the targeted tax area

1 shall be deemed to remain in existence for purposes of
2 computing the limitation specified in this subdivision.

3 *(k) The amendments made to this section by the act that added*
4 *this subdivision shall apply only to vouchers for hiring credits*
5 *issued after January 1, 2007.*

6 SEC. 17. Section 23646 of the Revenue and Taxation Code is
7 amended to read:

8 23646. (a) For each taxable year beginning on or after
9 January 1, 1995, there shall be allowed as a credit against the
10 “tax” (as defined in Section 23036) to a qualified taxpayer for
11 hiring a qualified disadvantaged individual or a qualified
12 displaced employee during the taxable year for employment in
13 the LAMBRA. The credit shall be equal to the sum of each of the
14 following:

15 (1) Fifty percent of the qualified wages in the first year of
16 employment.

17 (2) Forty percent of the qualified wages in the second year of
18 employment.

19 (3) Thirty percent of the qualified wages in the third year of
20 employment.

21 (4) Twenty percent of the qualified wages in the fourth year of
22 employment.

23 (5) Ten percent of the qualified wages in the fifth year of
24 employment.

25 (b) For purposes of this section:

26 (1) “Qualified wages” means:

27 (A) That portion of wages paid or incurred by the employer
28 during the taxable year to qualified disadvantaged individuals or
29 qualified displaced employees that does not exceed 150 percent
30 of the minimum wage.

31 (B) The total amount of qualified wages which may be taken
32 into account for purposes of claiming the credit allowed under
33 this section shall not exceed two million dollars (\$2,000,000) per
34 taxable year.

35 (C) Wages received during the 60-month period beginning
36 with the first day the individual commences employment with the
37 taxpayer. Reemployment in connection with any increase,
38 including a regularly occurring seasonal increase, in the trade or
39 business operation of the qualified taxpayer does not constitute
40 commencement of employment for purposes of this section.

(D) Qualified wages do not include any wages paid or incurred by the qualified taxpayer on or after the LAMBRA expiration date. However, wages paid or incurred with respect to qualified disadvantaged individuals or qualified displaced employees who are employed by the qualified taxpayer within the LAMBRA within the 60-month period prior to the LAMBRA expiration date shall continue to qualify for the credit under this section after the LAMBRA expiration date, in accordance with all provisions of this section applied as if the LAMBRA designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “LAMBRA” means a local agency military base recovery area designated in accordance with the provisions of Section 7114 of the Government Code.

(4) “Qualified disadvantaged individual” means an individual who satisfies all of the following requirements:

(A) (i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in a LAMBRA.

(ii) Who performs at least 50 percent of his or her services for the taxpayer during the taxable year in the LAMBRA.

(B) Who is hired by the employer after the designation of the area as a LAMBRA in which the individual’s services were primarily performed.

(C) Who is any of the following immediately preceding the individual’s commencement of employment with the taxpayer *as documented by the LAMBRA coordinator*:

(i) ~~An individual who has been determined eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.) enrolled and documented in the California Job Training Automation System by an authorized WIA representative under the federal Workforce Investment Act (29 U.S.C. Sec. 720 et seq.), or its successor.~~

(ii) ~~Any voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 provided for pursuant to Article 3.2 (commencing with Section 11320) An individual receiving benefits under the California Work Opportunity and~~

1 *Responsibility to Kids program provided for pursuant to Article*
2 *3.2 (commencing with Section 11200) of Chapter 2 of Part 3 of*
3 *Division 9 of the Welfare and Institutions Code.*

4 (iii) An economically disadvantaged individual age 16 years or
5 older. *For purposes of this section, an “economically*
6 *disadvantaged individual” means an individual who meets the*
7 *definition of that term under the Workforce Investment Act, or its*
8 *successor.*

9 (iv) ~~A dislocated worker who meets any of the following~~
10 ~~conditions:~~ *worker. For purposes of this section, an*
11 *“economically disadvantaged individual” means an individual*
12 *who meets the definition of that term under the Workforce*
13 *Investment Act, or its successor.*

14 (I) ~~Has been terminated or laid off or who has received a~~
15 ~~notice of termination or layoff from employment, is eligible for~~
16 ~~or has exhausted entitlement to unemployment insurance~~
17 ~~benefits, and is unlikely to return to his or her previous industry~~
18 ~~or occupation.~~

19 (II) ~~Has been terminated or has received a notice of~~
20 ~~termination of employment as a result of any permanent closure~~
21 ~~or any substantial layoff at a plant, facility, or enterprise,~~
22 ~~including an individual who has not received written notification~~
23 ~~but whose employer has made a public announcement of such a~~
24 ~~closure or layoff.~~

25 (III) ~~Is long-term unemployed and has limited opportunities~~
26 ~~for employment or reemployment in the same or a similar~~
27 ~~occupation in the area in which the individual resides, including~~
28 ~~an individual 55 years of age or older who may have substantial~~
29 ~~barriers to employment by reason of age.~~

30 (IV) ~~Was self-employed (including farmers and ranchers) and~~
31 ~~is unemployed as a result of general economic conditions in the~~
32 ~~community in which he or she resides or because of natural~~
33 ~~disasters.~~

34 (V) ~~Was a civilian employee of the Department of Defense~~
35 ~~employed at a military installation being closed or realigned~~
36 ~~under the Defense Base Closure and Realignment Act of 1990.~~

37 (VI) ~~Was an active member of the Armed Forces or National~~
38 ~~Guard as of September 30, 1990, and was either involuntarily~~
39 ~~separated or separated pursuant to a special benefits program.~~

1 ~~(VII) Experiences—chronic—seasonal—unemployment—and~~
2 ~~underemployment in the agriculture industry, aggravated by~~
3 ~~continual advancements in technology and mechanization.~~

4 ~~(VIII) Has been terminated or laid off or has received a notice~~
5 ~~of termination or layoff as a consequence of compliance with the~~
6 ~~Clean Air Act.~~

7 (v) An individual who is enrolled in or has completed a state
8 rehabilitation plan or is a plan.

9 (vi) *A service-connected disabled veteran, veteran of the*
10 *Vietnam era, or veteran who is recently separated from military*
11 *an individual who served in the active military, naval, or air*
12 *service, and who was discharged or released from that service*
13 *under conditions other than dishonorable, or any veteran who*
14 *was discharged or released in the last 48 months from active*
15 *military, naval, or air service.*

16 ~~(vi) An ex-offender.~~

17 (vii) *An individual with a prior felony conviction. An*
18 *individual shall be treated as convicted if he or she was placed on*
19 *probation by a state court without a finding of guilty.*

20 ~~(vii)–~~

21 (viii) *A recipient of any of the following benefits:*

22 (I) Federal Supplemental Security Income benefits.

23 ~~(II) Aid to Families with Dependent Children Temporary~~
24 ~~Assistance for Needy Families.~~

25 (III) Food stamps.

26 (IV) State and local general assistance.

27 ~~(viii)–~~

28 (ix) *Is a member of a federally recognized Indian tribe, band,*
29 *or other group of Native American descent.*

30 (5) “Qualified taxpayer” means a corporation that conducts a
31 trade or business within a LAMBRA and, for the first two
32 taxable years, has a net increase in jobs (defined as 2,000 paid
33 hours per employee per year) of one or more employees as
34 determined below in the LAMBRA.

35 (A) The net increase in the number of jobs shall be determined
36 by subtracting the total number of full-time employees (defined
37 as 2,000 paid hours per employee per year) the taxpayer
38 employed in this state in the taxable year prior to commencing
39 business operations in the LAMBRA from the total number of
40 full-time employees the taxpayer employed in this state during

1 the second taxable year after commencing business operations in
2 the LAMBRA. For taxpayers who commence doing business in
3 this state with their LAMBRA business operation, the number of
4 employees for the taxable year prior to commencing business
5 operations in the LAMBRA shall be zero. If the taxpayer has a
6 net increase in jobs in the state, the credit shall be allowed only if
7 one or more full-time employees is employed within the
8 LAMBRA.

9 (B) The total number of employees employed in the
10 LAMBRA shall equal the sum of both of the following:

11 (i) The total number of hours worked in the LAMBRA for the
12 taxpayer by employees (not to exceed 2,000 hours per employee)
13 who are paid an hourly wage divided by 2,000.

14 (ii) The total number of months worked in the LAMBRA for
15 the taxpayer by employees who are salaried employees divided
16 by 12.

17 (C) In the case of a qualified taxpayer that first commences
18 doing business in the LAMBRA during the taxable year, for
19 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
20 the divisors “2,000” and “12” shall be multiplied by a fraction,
21 the numerator of which is the number of months of the taxable
22 year that the taxpayer was doing business in the LAMBRA and
23 the denominator of which is 12.

24 (6) “Qualified displaced employee” means an individual who
25 satisfies all of the following requirements:

26 (A) Any civilian or military employee of a base or former base
27 that has been displaced as a result of a federal base closure act.

28 (B) (i) At least 90 percent of whose services for the taxpayer
29 during the taxable year are directly related to the conduct of the
30 taxpayer’s trade or business located in a LAMBRA.

31 (ii) Who performs at least 50 percent of his or her services for
32 the taxpayer during the taxable year in a LAMBRA.

33 (C) Who is hired by the employer after the designation of the
34 area in which services were performed as a LAMBRA.

35 (7) “Seasonal employment” means employment by a qualified
36 taxpayer that has regular and predictable substantial reductions in
37 trade or business operations.

38 (8) “LAMBRA expiration date” means the date the LAMBRA
39 designation expires, is no longer binding, or becomes
40 inoperative.

1 (c) For qualified disadvantaged individuals or qualified
2 displaced employees hired on or after January 1, 2001, the
3 taxpayer shall do both of the following:

4 (1) Obtain from—~~either~~ the Employment Development
5 Department, as permitted by federal law, the administrative
6 entity of the local county or city for the federal ~~Job Training~~
7 ~~Partnership~~ *Workforce Investment Act*, or its successor, the local
8 county ~~GAIN~~ *CalWORKs* office; or social services agency, ~~as~~
9 ~~appropriate~~ *or the local government administering the LAMBRA*,
10 a certification that provides that a qualified disadvantaged
11 individual or qualified displaced employee meets the eligibility
12 requirements specified in subparagraph (C) of paragraph (4) of
13 subdivision (b) or subparagraph (A) of paragraph (6) of
14 subdivision (b). The Employment Development Department may
15 provide preliminary screening and referral to a certifying agency.
16 The Employment Development Department shall develop a form
17 for this purpose. *Applications for this certification shall be*
18 *submitted to the certifying agency within 24 months of the*
19 *commencement date of employment with the taxpayer.*

20 (2) Retain a copy of the certification and provide it upon
21 request to the Franchise Tax Board.

22 (d) (1) For purposes of this section, both of the following
23 apply:

24 (A) All employees of all corporations that are members of the
25 same controlled group of corporations shall be treated as
26 employed by a single employer.

27 (B) The credit (if any) allowable by this section to each
28 member shall be determined by reference to its proportionate
29 share of the qualified wages giving rise to the credit.

30 (2) For purposes of this subdivision, “controlled group of
31 corporations” has the meaning given to that term by Section
32 1563(a) of the Internal Revenue Code, except that both of the
33 following apply:

34 (A) “More than 50 percent” shall be substituted for “at least 80
35 percent” each place it appears in Section 1563(a)(1) of the
36 Internal Revenue Code.

37 (B) The determination shall be made without regard to Section
38 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
39 Code.

1 (3) If an employer acquires the major portion of a trade or
2 business of another employer (hereinafter in this paragraph
3 referred to as the “predecessor”) or the major portion of a
4 separate unit of a trade or business of a predecessor, then, for
5 purposes of applying this section (other than subdivision (e)) for
6 any calendar year ending after that acquisition, the employment
7 relationship between an employee and an employer shall not be
8 treated as terminated if the employee continues to be employed
9 in that trade or business.

10 (e) (1) (A) If the employment of any employee, other than
11 seasonal employment, with respect to whom qualified wages are
12 taken into account under subdivision (a) is terminated by the
13 taxpayer at any time during the first 270 days of that employment
14 (whether or not consecutive) or before the close of the 270th
15 calendar day after the day in which that employee completes 90
16 days of employment with the taxpayer, the tax imposed by this
17 part for the taxable year in which that employment is terminated
18 shall be increased by an amount equal to the credit allowed under
19 subdivision (a) for that taxable year and all prior income years
20 attributable to qualified wages paid or incurred with respect to
21 that employee.

22 (B) If the seasonal employment of any qualified disadvantaged
23 individual, with respect to whom qualified wages are taken into
24 account under subdivision (a) is not continued by the qualified
25 taxpayer for a period of 270 days of employment during the
26 60-month period beginning with the day the qualified
27 disadvantaged individual commences seasonal employment with
28 the qualified taxpayer, the tax imposed by this part, for the
29 taxable year that includes the 60th month following the month in
30 which the qualified disadvantaged individual commences
31 seasonal employment with the qualified taxpayer, shall be
32 increased by an amount equal to the credit allowed under
33 subdivision (a) for that taxable year and all prior taxable years
34 attributable to qualified wages paid or incurred with respect to
35 that qualified disadvantaged individual.

36 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
37 any of the following:

38 (i) A termination of employment of an employee who
39 voluntarily leaves the employment of the taxpayer.

1 (ii) A termination of employment of an individual who, before
2 the close of the period referred to in paragraph (1), becomes
3 disabled to perform the services of that employment, unless that
4 disability is removed before the close of that period and the
5 taxpayer fails to offer reemployment to that individual.

6 (iii) A termination of employment of an individual, if it is
7 determined that the termination was due to the misconduct (as
8 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
9 the California Code of Regulations) of that individual.

10 (iv) A termination of employment of an individual due to a
11 substantial reduction in the trade or business operations of the
12 taxpayer.

13 (v) A termination of employment of an individual, if that
14 individual is replaced by other qualified employees so as to
15 create a net increase in both the number of employees and the
16 hours of employment.

17 (B) Subparagraph (B) of paragraph (1) shall not apply to any
18 of the following:

19 (i) A failure to continue the seasonal employment of a
20 qualified disadvantaged individual who voluntarily fails to return
21 to the seasonal employment of the qualified taxpayer.

22 (ii) A failure to continue the seasonal employment of a
23 qualified disadvantaged individual who, before the close of the
24 period referred to in subparagraph (B) of paragraph (1), becomes
25 disabled and unable to perform the services of that seasonal
26 employment, unless that disability is removed before the close of
27 that period and the qualified taxpayer fails to offer seasonal
28 employment to that qualified disadvantaged individual.

29 (iii) A failure to continue the seasonal employment of a
30 qualified disadvantaged individual, if it is determined that the
31 failure to continue the seasonal employment was due to the
32 misconduct (as defined in Sections 1256-30 to 1256-43,
33 inclusive, of Title 22 of the California Code of Regulations) of
34 that individual.

35 (iv) A failure to continue seasonal employment of a qualified
36 disadvantaged individual due to a substantial reduction in the
37 regular seasonal trade or business operations of the qualified
38 taxpayer.

39 (v) A failure to continue the seasonal employment of a
40 qualified disadvantaged individual, if that individual is replaced

1 by other qualified disadvantaged individuals so as to create a net
2 increase in both the number of seasonal employees and the hours
3 of seasonal employment.

4 (C) For purposes of paragraph (1), the employment
5 relationship between the taxpayer and an employee shall not be
6 treated as terminated by either of the following:

7 (i) A transaction to which Section 381(a) of the Internal
8 Revenue Code applies, if the employee continues to be employed
9 by the acquiring corporation.

10 (ii) A mere change in the form of conducting the trade or
11 business of the taxpayer, if the employee continues to be
12 employed in that trade or business and the taxpayer retains a
13 substantial interest in that trade or business.

14 (3) Any increase in tax under paragraph (1) shall not be treated
15 as tax imposed by this part for purposes of determining the
16 amount of any credit allowable under this part.

17 (4) At the close of the second taxable year, if the taxpayer has
18 not increased the number of its employees as determined by
19 paragraph (5) of subdivision (b), then the amount of the credit
20 previously claimed shall be added to the taxpayer's tax for the
21 taxpayer's second taxable year.

22 (f) In the case of an organization to which Section 593 of the
23 Internal Revenue Code applies, and a regulated investment
24 company or a real estate investment trust subject to taxation
25 under this part, rules similar to the rules provided in Section
26 46(e) and Section 46(h) of the Internal Revenue Code shall
27 apply.

28 (g) The credit shall be reduced by the credit allowed under
29 Section 23621. The credit shall also be reduced by the federal
30 credit allowed under Section 51 of the Internal Revenue Code.

31 In addition, any deduction otherwise allowed under this part
32 for the wages or salaries paid or incurred by the taxpayer upon
33 which the credit is based shall be reduced by the amount of the
34 credit, prior to any reduction required by subdivision (h) or (i).

35 (h) In the case where the credit otherwise allowed under this
36 section exceeds the "tax" for the taxable year, that portion of the
37 credit that exceeds the "tax" may be carried over and added to
38 the credit, if any, in succeeding years, until the credit is
39 exhausted. The credit shall be applied first to the earliest taxable
40 years possible.

(i) (1) The amount of credit otherwise allowed under this section and Section 23645, including any prior year carryovers, that may reduce the “tax” for the taxable year shall not exceed the amount of tax that would be imposed on the taxpayer’s business income attributed to a LAMBRA determined as if that attributed income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer’s business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

1 (k) *The amendments made to this section by the act that added*
2 *this subdivision shall apply only to vouchers for hiring credits*
3 *issued after January 1, 2007.*

4 SEC. 18. *Section 24356.6 of the Revenue and Taxation Code*
5 *is amended to read:*

6 24356.6. (a) For each taxable year beginning on or after
7 January 1, 1998, a qualified taxpayer may elect to treat ~~40~~ 60
8 percent of the cost of any Section 24356.6 property as an expense
9 that is not chargeable to a capital account. Any cost so treated
10 shall be allowed as a deduction for the taxable year in which the
11 qualified taxpayer places the Section 24356.6 property in service.

12 (b) (1) An election under this section for any taxable year
13 shall do both of the following:

14 (A) Specify the items of Section 24356.6 property to which
15 the election applies and the percentage of the cost of each of
16 those items that are to be taken into account under subdivision
17 (a).

18 (B) Be made on the qualified taxpayer's original return of the
19 tax imposed by this part for the taxable year.

20 (2) Any election made under this section, and any
21 specification contained in that election, may not be revoked
22 except with the consent of the Franchise Tax Board.

23 (c) (1) For purposes of this section, "Section 24356.6
24 property" means any recovery property that is:

25 (A) Section 1245 property (as defined in Section 1245 (a)(3)
26 of the Internal Revenue Code).

27 (B) Purchased and placed in service by the qualified taxpayer
28 for exclusive use in a trade or business conducted within a
29 targeted tax area designated pursuant to Chapter 12.93
30 (commencing with Section 7097) of Division 7 of Title 1 of the
31 Government Code.

32 (C) Purchased and placed in service before the date the
33 targeted tax area designation expires, is revoked, is no longer
34 binding, or becomes inoperative.

35 (2) For purposes of paragraph (1), "purchase" means any
36 acquisition of property, but only if all of the following apply:

37 (A) The property is not acquired from a person whose
38 relationship to the person acquiring it would result in the
39 disallowance of losses under Section 267 or 707(b) of the
40 Internal Revenue Code. However, in applying Sections 267(b)

1 and 267(c) for purposes of this section, Section 267(c)(4) shall be
2 treated as providing that the family of an individual shall include
3 only the individual's spouse, ancestors, and lineal descendants.

4 (B) The property is not acquired by one member of an
5 affiliated group from another member of the same affiliated
6 group.

7 (C) The basis of the property in the hands of the person
8 acquiring it is not determined in whole or in part by reference to
9 the adjusted basis of that property in the hands of the person from
10 who it is acquired.

11 (3) For purposes of this section, the cost of property does not
12 include that portion of the basis of that property that is
13 determined by reference to the basis of other property held at any
14 time by the person acquiring that property.

15 (4) This section shall not apply to any property for which the
16 qualified taxpayer may not make an election under Section 179
17 of the Internal Revenue Code because of the application of the
18 provisions of Section 179(d) of the Internal Revenue Code.

19 (5) For purposes of subdivision (b), both of the following
20 apply:

21 (A) All members of an affiliated group shall be treated as one
22 qualified taxpayer.

23 (B) The qualified taxpayer shall apportion the dollar limitation
24 contained in subdivision (f) among the members of the affiliated
25 group in whatever manner the board shall prescribe.

26 (6) For purposes of paragraphs (2) and (5), "affiliated group"
27 means "affiliated group" as defined in Section 1504 of the
28 Internal Revenue Code, except that, for these purposes, the
29 phrase "more than 50 percent" shall be substituted for the phrase
30 "at least 80 percent" each place it appears in Section 1504(a) of
31 the Internal Revenue Code.

32 (d) (1) For purposes of this section, "qualified taxpayer"
33 means a corporation that meets both of the following:

34 (A) Is engaged in conducting a trade or business within a
35 targeted tax area designated pursuant to Chapter 12.93
36 (commencing with Section 7097) of Division 7 of Title 1 of the
37 Government Code.

38 (B) Is engaged in those lines of business described in Codes
39 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
40 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,

1 of the Standard Industrial Classification (SIC) Manual published
 2 by the United States Office of Management and Budget, 1987
 3 edition.

4 (2) In the case of any pass-through entity, the determination of
 5 whether a taxpayer is a qualified taxpayer under this section shall
 6 be made at the entity level and any deduction under this section
 7 or Section 17267.6 shall be allowed to the pass-through entity
 8 and passed through to the partners or shareholders in accordance
 9 with applicable provisions of this part or Part 10 (commencing
 10 with Section 17001). For purposes of this subparagraph, the term
 11 “pass-through entity” means any partnership or S corporation.

12 (e) Any qualified taxpayer who elects to be subject to this
 13 section shall not be entitled to claim additional depreciation
 14 pursuant to Section 24356 with respect to any property that
 15 constitutes Section 24356.6 property. However, the qualified
 16 taxpayer may claim depreciation by any method permitted by
 17 Section 24349 commencing with the taxable year following the
 18 taxable year in which Section 24356.6 property is placed in
 19 service.

20 (f) The aggregate cost of all Section 24356.6 property that
 21 may be taken into account under subdivision (a) for any taxable
 22 year shall not exceed ~~the following applicable amount for the~~
 23 ~~taxable year of the designation of the relevant targeted tax area~~
 24 ~~and taxable years thereafter: one hundred thousand dollars~~
 25 ~~(\$100,000).~~

	The applicable amount is:
29 Taxable year of designation.....	\$100,000
30 1st taxable year thereafter.....	100,000
31 2nd taxable year thereafter.....	75,000
32 3rd taxable year thereafter.....	– 75,000
33 Each taxable year thereafter.....	– 50,000

34
 35 (g) Any amounts deducted under subdivision (a) with respect
 36 to Section 24356.6 property that ceases to be used in the
 37 qualified taxpayer’s trade or business within a targeted tax area at
 38 any time before the close of the second taxable year after the
 39 property is placed in service shall be included in income in the
 40 taxable year in which the property ceases to be so used.

1 *SEC. 19. Section 24356.7 of the Revenue and Taxation Code*
2 *is amended to read:*

3 24356.7. (a) A taxpayer may elect to treat ~~40~~ 60 percent of
4 the cost of any Section 24356.7 property as an expense that is not
5 chargeable to a capital account. Any cost so treated shall be
6 allowed as a deduction for the taxable year in which the taxpayer
7 places the Section 24356.7 property in service.

8 (b) (1) An election under this section for any taxable year
9 shall do both of the following:

10 (A) Specify the items of Section 24356.7 property to which
11 the election applies and the percentage of the cost of each of
12 those items that are to be taken into account under subdivision
13 (a).

14 (B) Be made on the taxpayer's original return of the tax
15 imposed by this part for the taxable year.

16 (2) Any election made under this section, and any
17 specification contained in that election, may not be revoked
18 except with the consent of the Franchise Tax Board.

19 (c) (1) For purposes of this section, "Section 24356.7
20 property" means any recovery property that is:

21 (A) Section 1245 property (as defined in Section 1245(a)(3) of
22 the Internal Revenue Code).

23 (B) Purchased and placed in service by the taxpayer for
24 exclusive use in a trade or business conducted within an
25 enterprise zone designated pursuant to Chapter 12.8
26 (commencing with Section 7070) of Division 7 of Title 1 of the
27 Government Code.

28 (C) Purchased and placed in service before the date the
29 enterprise zone designation expires, is no longer binding, or
30 becomes inoperative.

31 (2) For purposes of paragraph (1), "purchase" means any
32 acquisition of property, but only if all of the following apply:

33 (A) The property is not acquired from a person whose
34 relationship to the person acquiring it would result in the
35 disallowance of losses under Sections 24427 through 24429.
36 However, in applying Sections 24428 and 24429 for purposes of
37 this section, subdivision (d) of Section 24429 shall be treated as
38 providing that the family of an individual shall include only his
39 or her spouse, ancestors, and lineal descendants.

1 (B) The property is not acquired by one member of an
2 affiliated group from another member of the same affiliated
3 group.

4 (C) The basis of the property in the hands of the person
5 acquiring it is not determined in whole or in part by reference to
6 the adjusted basis of that property in the hands of the person from
7 whom it is acquired.

8 (3) For purposes of this section, the cost of property does not
9 include that portion of the basis of that property that is
10 determined by reference to the basis of other property held at any
11 time by the person acquiring that property.

12 (4) This section shall not apply to any property for which the
13 taxpayer could not make a federal election under Section 179 of
14 the Internal Revenue Code because of the application of the
15 provisions of Section 179(d) of the Internal Revenue Code.

16 (5) For purposes of subdivision (b) of this section, both of the
17 following apply:

18 (A) All members of an affiliated group shall be treated as one
19 taxpayer.

20 (B) The taxpayer shall apportion the dollar limitation
21 contained in subdivision (f) among the members of the affiliated
22 group in whatever manner the board shall prescribe.

23 (6) For purposes of paragraphs (2) and (5), “affiliated group”
24 means “affiliated group” as defined in Section 1504 of the
25 Internal Revenue Code, except that, for these purposes, the
26 phrase “more than 50 percent” shall be substituted for the phrase
27 “at least 80 percent” each place it appears in Section 1504(a) of
28 the Internal Revenue Code.

29 (d) For purposes of this section, “taxpayer” means a bank or
30 corporation that conducts a trade or business within an enterprise
31 zone designated pursuant to Chapter 12.8 (commencing with
32 Section 7070) of Division 7 of Title 1 of the Government Code.

33 (e) Any taxpayer who elects to be subject to this section shall
34 not be entitled to claim additional depreciation pursuant to
35 Section 24356 with respect to any property that constitutes
36 Section 24356.7 property. However, the taxpayer may claim
37 depreciation by any method permitted by Section 24349
38 commencing with the taxable year following the taxable year in
39 which Section 24356.7 property is placed in service.

(f) The aggregate cost of all Section 24356.7 property that may be taken into account under subdivision (a) for any taxable years shall not exceed ~~the following applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:~~ *one hundred thousand dollars (\$100,000).*

-	The applicable
-	amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	- 75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.7 property that ceases to be used in the taxpayer's trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

SEC. 20. Section 24356.8 of the Revenue and Taxation Code is amended to read:

24356.8. (a) For each taxable year beginning on or after January 1, 1995, a taxpayer may elect to treat ~~40~~ 60 percent of the cost of any Section 24356.8 property as an expense that is not chargeable to the capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 24356.8 property in service.

(b) (1) An election under this section for any taxable year shall meet both of the following requirements:

(A) Specify the items of Section 24356.8 property to which the election applies and the portion of the cost of each of those items that is to be taken into account under subdivision (a).

(B) Be made on the taxpayer's return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

1 (c) (1) For purposes of this section, “Section 24356.8
2 property” means any recovery property that is:

3 (A) Section 1245 property (as defined in Section 1245(a)(3) of
4 the Internal Revenue Code).

5 (B) Purchased by the taxpayer for exclusive use in a trade or
6 business conducted within a LAMBRA.

7 (C) Purchased before the date the LAMBRA designation
8 expires, is no longer binding, or becomes inoperative.

9 (2) For purposes of paragraph (1), “purchase” means any
10 acquisition of property, but only if all of the following apply:

11 (A) The property is not acquired from a person whose
12 relationship to the person acquiring it would result in the
13 disallowance of losses under Section 267 or 707(b) of the
14 Internal Revenue Code (but, in applying Sections 267(b) and
15 267(c) of the Internal Revenue Code for purposes of this section,
16 Section 267(c)(4) of the Internal Revenue Code shall be treated
17 as providing that the family of an individual shall include only
18 his or her spouse, ancestors, and lineal descendants).

19 (B) The property is not acquired by one component member of
20 an affiliated group from another component member of the same
21 affiliated group.

22 (C) The basis of the property in the hands of the person
23 acquiring it is not determined in whole or in part by reference to
24 the adjusted basis of that property in the hands of the person from
25 whom acquired.

26 (3) For purposes of this section, the cost of property does not
27 include so much of the basis of that property as is determined by
28 reference to the basis of other property held at any time by the
29 person acquiring that property.

30 (4) This section shall not apply to any property for which the
31 taxpayer may not make an election for the taxable year under
32 Section 179 of the Internal Revenue Code because of the
33 provisions of Section 179(d) of the Internal Revenue Code.

34 (5) For purposes of subdivision (b), both of the following
35 apply:

36 (A) All members of an affiliated group shall be treated as one
37 taxpayer.

38 (B) The taxpayer shall apportion the dollar limitation
39 contained in subdivision (f) among the component members of

1 the affiliated group in whatever manner the board shall by
2 regulations prescribe.

3 (6) For purposes of paragraphs (2) and (5), “affiliated group”
4 has the meaning assigned to it by Section 1504 of the Internal
5 Revenue Code, except that, for these purposes, the phrase “more
6 than 50 percent” shall be substituted for the phrase “at least 80
7 percent” each place it appears in Section 1504(a) of the Internal
8 Revenue Code.

9 (7) This section shall not apply to any property described in
10 Section 168(f) of the Internal Revenue Code.

11 (8) In the case of an S corporation, the dollar limitation
12 contained in subdivision (f) shall be applied at the entity level
13 and at the shareholder level.

14 (d) For purposes of this section:

15 (1) “LAMBRA” means a local agency military base recovery
16 area designated in accordance with the provisions of Section
17 7114 of the Government Code.

18 (2) “Taxpayer” means a corporation that conducts a trade or
19 business within a LAMBRA and, for the first two taxable years,
20 has a net increase in jobs (defined as 2,000 paid hours per
21 employee per year) of one or more employees in the LAMBRA.

22 (A) The net increase in the number of jobs shall be determined
23 by subtracting the total number of full-time employees (defined
24 as 2,000 paid hours per employee per year) the taxpayer
25 employed in this state in the taxable year prior to commencing
26 business operations in the LAMBRA from the total number of
27 full-time employees the taxpayer employed in this state during
28 the second taxable year after commencing business operations in
29 the LAMBRA. For taxpayers who commence doing business in
30 this state with their LAMBRA business operation, the number of
31 employees for the taxable year prior to commencing business
32 operations in the LAMBRA shall be zero. If the taxpayer has a
33 net increase in jobs in the state, the credit shall be allowed only if
34 one or more full-time employees is employed within the
35 LAMBRA.

36 (B) The total number of employees employed in the
37 LAMBRA shall equal the sum of both of the following:

38 (i) The total number of hours worked in the LAMBRA for the
39 taxpayer by employees (not to exceed 2,000 hours per employee)
40 who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer that first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B), the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.8 property.

(f) The aggregate cost of all Section 24356.8 property that may be taken into account under subdivision (a) for any taxable year shall not exceed ~~the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:~~ *one hundred thousand dollars (\$100,000).*

	The applicable amount is:
	-
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	-75,000
3rd taxable year thereafter.....	-75,000
Each taxable year thereafter.....	-50,000

(g) This section shall apply only to property that is used exclusively in a trade or business conducted within a LAMBRA.

(h) (1) Any amounts deducted under subdivision (a) with respect to property that ceases to be used in the trade or business within a LAMBRA at any time before the close of the second taxable year after the property was placed in service shall be included in income for that year.

(2) At the close of the second taxable year, if the taxpayer has not increased the number of its employees as determined by paragraph (2) of subdivision (d), then the amount of the

deduction previously claimed shall be added to the taxpayer's net income for the taxpayer's second taxable year.

(i) Any taxpayer who elects to be subject to this section shall not be entitled to claim for the same property the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets.

SEC. 21. Section 24384.5 of the Revenue and Taxation Code is amended to read:

24384.5. (a) There shall be allowed as a deduction the amount of net interest received by the taxpayer in payment of indebtedness of a person or entity engaged in a trade or business located in an enterprise zone.

(b) No deduction shall be allowed under this section unless at the time the indebtedness is incurred each of the following requirements are met:

(1) The trade or business *qualifying the lender for the deduction* is *physically located* ~~solely~~ within an enterprise zone. *Debtors physically located within and outside the enterprise zone shall not qualify the lender for the deduction for loans made within the zone.*

(2) The indebtedness is incurred solely in connection with activity within the enterprise zone. *Lenders shall verify and document that the proceeds from loans made to taxpayers in the enterprise zone are spent within the enterprise zone.*

(3) The taxpayer has no equity or other ownership interest in the debtor.

(c) "Enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

SEC. 22. Section 24416.2 of the Revenue and Taxation Code is amended to read:

24416.2. (a) The term "qualified taxpayer" as used in Section 24416.1 includes a corporation engaged in the conduct of a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which

1 the taxpayer conducts a trade or business is designated as an
2 enterprise zone shall be a net operating loss carryover to each of
3 the ~~15~~ 17 taxable years following the taxable year of loss.

4 (2) For purposes of this subdivision:

5 (A) “Net operating loss” means the loss determined under
6 Section 172 of the Internal Revenue Code, as modified by
7 Section 24416.1, attributable to the taxpayer’s business activities
8 within the enterprise zone (as defined in Chapter 12.8
9 (commencing with Section 7070) of Division 7 of Title 1 of the
10 Government Code) prior to the enterprise zone expiration date.
11 That attributable loss shall be determined in accordance with
12 Chapter 17 (commencing with Section 25101), modified for
13 purposes of this subdivision as follows:

14 (i) ~~Loss shall be apportioned to the enterprise zone by~~
15 ~~multiplying total loss from the business by a fraction, the~~
16 ~~numerator of which is the property factor plus the payroll factor,~~
17 ~~and the denominator of which is two.~~

18 (ii) ~~“The enterprise zone” shall be substituted for “this state.”~~

19 (B) ~~A net operating loss carryover shall be a deduction only~~
20 ~~with respect to the taxpayer’s business income attributable to the~~
21 ~~enterprise zone as defined in Chapter 12.8 (commencing with~~
22 ~~Section 7070) of Division 7 of Title 1 of the Government Code.~~

23 (C) ~~Attributable income is that portion of the taxpayer’s~~
24 ~~California source business income that is apportioned to the~~
25 ~~enterprise zone. For that purpose, the taxpayer’s business income~~
26 ~~attributable to sources in this state first shall be determined in~~
27 ~~accordance with Chapter 17 (commencing with Section 25101).~~
28 ~~That business income shall be further apportioned to the~~
29 ~~enterprise zone in accordance with Article 2 (commencing with~~
30 ~~Section 25120) of Chapter 17, modified for purposes of this~~
31 ~~subdivision as follows:~~

32 (i) ~~Business income shall be apportioned to the enterprise zone~~
33 ~~by multiplying the total California business income of the~~
34 ~~taxpayer by a fraction, the numerator of which is the property~~
35 ~~factor plus the payroll factor, and the denominator of which is~~
36 ~~two. For purposes of this clause:~~

37 (I) ~~The property factor is a fraction, the numerator of which is~~
38 ~~the average value of the taxpayer’s real and tangible personal~~
39 ~~property owned or rented and used in the enterprise zone during~~
40 ~~the taxable year, and the denominator of which is the average~~

1 value of all the taxpayer's real and tangible personal property
2 owned or rented and used in this state during the taxable year.

3 (H) The payroll factor is a fraction, the numerator of which is
4 the total amount paid by the taxpayer in the enterprise zone
5 during the taxable year for compensation, and the denominator of
6 which is the total compensation paid by the taxpayer in this state
7 during the taxable year.

8 (ii) If a loss carryover is allowable pursuant to this section for
9 any taxable year after the enterprise zone designation has
10 expired, the enterprise zone shall be deemed to remain in
11 existence for purposes of computing the limitation set forth in
12 subparagraph (B) and allowing a net operating loss deduction.

13 ~~(D)~~

14 (B) "Enterprise zone expiration date" means the date the
15 enterprise zone designation expires, is no longer binding, or
16 becomes inoperative.

17 (3) The changes made to this subdivision by the act adding
18 this paragraph shall apply to taxable years beginning on or after
19 January 1, 1998.

20 (b) A taxpayer who qualifies as a "qualified taxpayer" under
21 one or more sections shall, for the taxable year of the net
22 operating loss and any taxable year to which that net operating
23 loss may be carried, designate on the original return filed for
24 each year the section which applies to that taxpayer with respect
25 to that net operating loss. If the taxpayer is eligible to qualify
26 under more than one section, the designation is to be made after
27 taking into account subdivision (c).

28 (c) If a taxpayer is eligible to qualify under this section and
29 either Section 24416.4, 24416.5, or 24416.6 as a "qualified
30 taxpayer," with respect to a net operating loss in a taxable year,
31 the taxpayer shall designate which section is to apply to the
32 taxpayer.

33 (d) Notwithstanding Section 24416, the amount of the loss
34 determined under this section, or Section 24416.4, 24416.5, or
35 24416.6 shall be the only net operating loss allowed to be carried
36 over from that taxable year and the designation under subdivision
37 (b) shall be included in the election under Section 24416.1.

38 *SEC. 23. Section 24416.5 of the Revenue and Taxation Code*
39 *is amended to read:*

24416.5. (a) For each taxable year beginning on or after January 1, 1995, the term “qualified taxpayer” as used in Section 24416.1 includes a taxpayer engaged in the conduct of a trade or business within a LAMBRA. For purposes of this subdivision, all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and, except as provided in subparagraph (B), a net operating loss for any taxable year beginning on or after the date the area in which the taxpayer conducts a trade or business is designated a LAMBRA shall be a net operating loss carryover to each following taxable year that ends before the LAMBRA expiration date or to each of the ~~15~~ 17 taxable years following the taxable year of loss, if longer.

(2) In the case of a financial institution to which Section 585, 586, or 593 of the Internal Revenue Code applies, a net operating loss for any taxable year beginning on or after January 1, 1984, shall be a net operating loss carryover to each of the five years following the taxable year of the loss. Subdivision (b) of Section 24416.1 shall not apply.

(3) “LAMBRA” means a local agency military base recovery area designated in accordance with Section 7114 of the Government Code.

(4) “Taxpayer” means a bank or corporation that conducts a trade or business within a LAMBRA and, for the first two taxable years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA and this state. For purposes of this paragraph, all of the following shall apply:

(A) The net increase in the number of jobs shall be determined by subtracting the total number of full-time employees (defined as 2,000 paid hours per employee per year) the taxpayer employed in this state in the taxable year prior to commencing business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in this state during the second taxable year after commencing business operations in the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. The deduction shall be allowed only if the taxpayer has a net increase in jobs in the state,

1 and if one or more full-time employees are employed within the
2 LAMBRA.

3 (B) The total number of employees employed in the
4 LAMBRA shall equal the sum of both of the following:

5 (i) The total number of hours worked in the LAMBRA for the
6 taxpayer by employees (not to exceed 2,000 hours per employee)
7 who are paid an hourly wage divided by 2,000.

8 (ii) The total number of months worked in the LAMBRA for
9 the taxpayer by employees who are salaried employees divided
10 by 12.

11 (C) In the case of a taxpayer that first commences doing
12 business in the LAMBRA during the taxable year, for purposes
13 of clauses (i) and (ii), respectively, of subparagraph (B) the
14 divisors “2,000” and “12” shall be multiplied by a fraction, the
15 numerator of which is the number of months of the taxable year
16 that the taxpayer was doing business in the LAMBRA and the
17 denominator of which is 12.

18 (5) “Net operating loss” means the loss determined under
19 Section 172 of the Internal Revenue Code, as modified by
20 Section 24416.1, attributable to the taxpayer’s business activities
21 within a LAMBRA prior to the LAMBRA expiration date. ~~The~~
22 ~~attributable loss shall be determined in accordance with Chapter~~
23 ~~17 (commencing with Section 25101), modified for purposes of~~
24 ~~this section as follows:~~

25 ~~(A) Loss shall be apportioned to a LAMBRA by multiplying~~
26 ~~total loss from the business by a fraction, the numerator of which~~
27 ~~is the property factor plus the payroll factor, and the denominator~~
28 ~~of which is 2.~~

29 ~~(B) “The LAMBRA” shall be substituted for “this state.”~~

30 ~~(6) A net operating loss carryover shall be a deduction only~~
31 ~~with respect to the taxpayer’s business income attributable to a~~
32 ~~LAMBRA.~~

33 ~~(7) Attributable income is that portion of the taxpayer’s~~
34 ~~California source business income that is apportioned to the~~
35 ~~LAMBRA. For that purpose, the taxpayer’s business income~~
36 ~~attributable to sources in this state first shall be determined in~~
37 ~~accordance with Chapter 17 (commencing with Section 25101).~~
38 ~~That business income shall be further apportioned to the~~
39 ~~LAMBRA in accordance with Article 2 (commencing with~~
40 ~~Section 25120) of Chapter 17, modified as follows:~~

1 ~~(A) Business income shall be apportioned to a LAMBRA by~~
2 ~~multiplying total California business income of the taxpayer by a~~
3 ~~fraction, the numerator of which is the property factor plus the~~
4 ~~payroll factor, and the denominator of which is two. For purposes~~
5 ~~of this clause:~~

6 ~~(i) The property factor is a fraction, the numerator of which is~~
7 ~~the average value of the taxpayer's real and tangible personal~~
8 ~~property owned or rented and used in the LAMBRA during the~~
9 ~~taxable year, and the denominator of which is the average value~~
10 ~~of all the taxpayer's real and tangible personal property owned or~~
11 ~~rented and used in this state during the taxable year.~~

12 ~~(ii) The payroll factor is a fraction, the numerator of which is~~
13 ~~the total amount paid by the taxpayer in the LAMBRA during the~~
14 ~~taxable year for compensation, and the denominator of which is~~
15 ~~the total compensation paid by the taxpayer in this state during~~
16 ~~the taxable year.~~

17 ~~(B) If a loss carryover is allowable pursuant to this section for~~
18 ~~any taxable year after the LAMBRA designation has expired, the~~
19 ~~LAMBRA shall be deemed to remain in existence for purposes~~
20 ~~of computing the limitation specified in subparagraph (D) and~~
21 ~~allowing a net operating loss deduction.~~

22 ~~(8)–~~

23 ~~(6)~~ “LAMBRA expiration date” means the date the
24 LAMBRA designation expires, is no longer binding, or becomes
25 inoperative pursuant to Section 7110 of the Government Code.

26 (b) A taxpayer who qualifies as a “qualified taxpayer” under
27 one or more sections shall, for the taxable year of the net
28 operating loss and any taxable year to which that net operating
29 loss may be carried, designate on the original return filed for
30 each year the section that applies to that taxpayer with respect to
31 that net operating loss. If the taxpayer is eligible to qualify under
32 more than one section, the designation is to be made after taking
33 into account subdivision (c).

34 (c) If a taxpayer is eligible to qualify under this section and
35 either Section 24416.2, 24416.4, or 24416.6 as a “qualified
36 taxpayer,” with respect to a net operating loss in a taxable year,
37 the taxpayer shall designate which section is to apply to the
38 taxpayer.

39 (d) Notwithstanding Section 24416, the amount of the loss
40 determined under this section or Section 24416.2, 24416.4, or

1 24416.6 shall be the only net operating loss allowed to be carried
2 over from that taxable year and the designation under subdivision
3 (b) shall be included in the election under Section 24416.1.

4 (e) This section shall apply to taxable years beginning on and
5 after January 1, 1998.

6 *SEC. 24. Section 24416.6 of the Revenue and Taxation Code*
7 *is amended to read:*

8 24416.6. (a) For each taxable year beginning on or after
9 January 1, 1998, the term “qualified taxpayer” as used in Section
10 24416.1 includes a corporation that meets both of the following:

11 (1) Is engaged in the conduct of a trade or business within a
12 targeted tax area designated pursuant to Chapter 12.93
13 (commencing with Section 7097) of Division 7 of Title 1 of the
14 Government Code.

15 (2) Is engaged in those lines of business described in Codes
16 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
17 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
18 of the Standard Industrial Classification (SIC) Manual published
19 by the United States Office of Management and Budget, 1987
20 edition. In the case of any pass-through entity, the determination
21 of whether a taxpayer is a qualified taxpayer shall be made at the
22 entity level.

23 (b) For purposes of subdivision (a), all of the following shall
24 apply:

25 (1) A net operating loss shall not be a net operating loss
26 carryback for any taxable year and a net operating loss for any
27 taxable year beginning on or after the date that the area in which
28 the qualified taxpayer conducts a trade or business is designated
29 as a targeted tax area shall be a net operating loss carryover to
30 each of the ~~15~~ 17 taxable years following the taxable year of loss.

31 (2) “Net operating loss” means the loss determined under
32 Section 172 of the Internal Revenue Code, as modified by
33 Section 24416.1, attributable to the qualified taxpayer’s business
34 activities within the targeted tax area (as defined in Chapter
35 12.93 (commencing with Section 7097) of Division 7 of Title 1
36 of the Government Code) prior to the targeted tax area expiration
37 date. ~~That attributable loss shall be determined in accordance~~
38 ~~with Chapter 17 (commencing with Section 25101), modified for~~
39 ~~purposes of this section as follows:~~

~~(A) Loss shall be apportioned to the targeted tax area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.~~

~~(B) “The targeted tax area” shall be substituted for “this state.”~~

~~(3) A net operating loss carryover shall be a deduction only with respect to the qualified taxpayer’s business income attributable to the targeted tax area as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.~~

~~(4) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this subdivision as follows:~~

~~(A) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:~~

~~(i) The property factor is a fraction, the numerator of which is the average value of the taxpayer’s real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer’s real and tangible personal property owned or rented and used in this state during the taxable year.~~

~~(ii) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.~~

~~(B) If a loss carryover is allowable pursuant to this subdivision for any taxable year after the targeted tax area expiration date, the targeted tax area designation shall be deemed to remain in existence for purposes of computing the limitation specified in subparagraph (B) and allowing a net operating loss deduction.~~

1 ~~(5)–~~

2 (3) “Targeted tax area expiration date” means the date the
3 targeted tax area designation expires, is revoked, is no longer
4 binding, or becomes inoperative.

5 (c) A taxpayer who qualifies as a “qualified taxpayer” under
6 one or more sections shall, for the taxable year of the net
7 operating loss and any taxable year to which that net operating
8 loss may be carried, designate on the original return filed for
9 each year the section that applies to that taxpayer with respect to
10 that net operating loss. If the taxpayer is eligible to qualify under
11 more than one section, the designation is to be made after taking
12 into account subdivision (e).

13 (d) If a taxpayer is eligible to qualify under this section and
14 either Section 24416.2, 24416.4, or 24416.5 as a “qualified
15 taxpayer,” with respect to a net operating loss in a taxable year,
16 the taxpayer shall designate which section is to apply to the
17 taxpayer.

18 (e) Notwithstanding Section 24416, the amount of the loss
19 determined under this section or Section 24416.2, 24416.4, or
20 24416.5 shall be the only net operating loss allowed to be carried
21 over from that taxable year and the designation under subdivision
22 (c) shall be included in the election under Section 24416.1.

23 (f) This section shall apply to taxable years beginning on or
24 after January 1, 1998.

25 *SEC. 25. It is the intent of the Legislature that no inference be*
26 *drawn in connection with any matter governed by Sections*
27 *17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8,*
28 *23634, and 23646 of the Revenue and Taxation Code, from the*
29 *period to which the amendments made to those sections by this*
30 *act apply, for any taxable year beginning before January 1,*
31 *2007.*

32 ~~SECTION 1. The Legislature intends to study adult education~~
33 ~~funding.~~